

STANDARD TERMS AND CONDITIONS FOR SALE OF USED CONTAINERS

SALE TO BUSINESSES (For sale to consumers please see our consumer terms and conditions)

Contents

1	Definitions and interpretation	1
2	Application of these conditions	3
3	Price	3
4	Payment	4
5	Credit limit	4
6	Delivery	4
7	Risk	5
8	Title	5
9	Warranty	6
10	Anti-bribery	7
11	Indemnity and insurance	8
12	Limitation of liability	8
13	Force majeure	9
14	Termination	9
15	Cumulative remedies	10
16	Time	10
17	Entire agreement	10
18	Variation	10
19	Assignment	10
20	Set-off	11
21	Severance	11
22	Waiver	11
23	Compliance with law	11

24	Conflicts within contract	11
25	Third party rights	11
26	Governing law	12
27	Jurisdiction	12

1 Definitions and interpretation

1.1 In these Conditions the following definitions apply:

Affiliate	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
Applicable Law	means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national;
Bribery Laws	means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010;
Business Day	means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England and Wales;
Conditions	means the Supplier's terms and conditions of sale set out in this document;
Contract	means the agreement between the Supplier and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order;
Control	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and Controls, Controlled and under common Control shall be construed accordingly;
Customer	means the named party in the Contract which has agreed to purchase the Goods from the Supplier and whose details are set out in the Order;
Documentation	means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Goods;
Force Majeure	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood,

lightning, earthquake or other natural disaster, pandemic, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;

Goods	means the goods and other physical material set out in the Order and to be supplied by the Supplier to the Customer in accordance with the Contract;
Location	means the installation site for the Goods and the address or addresses for delivery of the Goods as set out in the Order;
Order	means an order for the Goods from the Supplier placed by the Customer;
Price	has the meaning given in clause 3.1;
Specification	means the description or Documentation provided for the Goods set out or referred to in the Contract;
Supplier	means Self Storage Wem Limited of Rye Bank Grange, Rye Bank, Wem, United Kingdom, SY4 5QX;
VAT	means value added tax under the Value Added Tax Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods; and
Warranty Period	has the meaning given in clause 9.1.

1.2 In these Conditions, unless the context requires otherwise:

- 1.2.1 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.2 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.4 a reference to a gender includes each other gender;

- 1.2.5 words in the singular include the plural and vice versa;
- 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
- 1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract;
- 1.2.9 a reference to legislation includes all subordinate legislation made from time to time under that legislation; and

2 Application of these conditions

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.
- 2.3 No variation to these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.
- 2.4 Each Order by the Customer to the Supplier shall constitute an offer by the Customer to purchase the Goods. The Supplier may accept or decline Orders at its absolute discretion. .
- 2.5 Any quote or other offer by the Supplier which is sent to the Customer shall remain in effect and capable of being used by the Customer to submit an Order for 14 Business Days from the date on which the Supplier submitted the offer, after which time it shall automatically lapse and be withdrawn.
- 2.6 The Supplier may issue quotations to the Customer from time to time.
- 2.7 Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract.

3 Price

- 3.1 The price for the Goods shall be as set out in the quotation provided by the Supplier including shipping costs, VAT and any other extras being arranged by the Supplier..
- 3.2 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 3.3 The Supplier may increase the Prices in the event that the Customer changes the delivery date (if less than 24 hours notice is given), quantity or type of Goods ordered by giving the Customer not less than 2 Business Days' notice in writing.

4 Payment

- 4.1 The Supplier shall invoice the Customer for the Goods at any time following acceptance of the Order.
- 4.2 The Customer shall pay all invoices:
 - 4.2.1 in full without deduction or set-off, in cleared funds within 5 Business Days of the date of each invoice and in any event such that cleared funds are received by the Supplier prior to the date of delivery; and
 - 4.2.2 to the bank account nominated by the Supplier.
- 4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:
 - 4.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 8% a year above the base rate of the Official Bank Rate from time to time of the Bank of England from time to time in force; and
 - 4.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

5 Credit limit

The Supplier does not normally extend credit to the Customer but in the event that the Supplier does extend credit then it may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

6 Delivery

- 6.1 The Goods shall be delivered by the Supplier, or its nominated carrier, to the Location on the date specified by the Supplier. Any connection to services or other connections are excluded from the Contract.
- 6.2 The Goods shall be deemed delivered on completion of unloading only of the Goods at the Location by the Supplier or its nominated carrier (as the case may be).
- 6.3 The Supplier may deliver the Goods in instalments if specified by the Supplier. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6.4 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates but such dates are indicative only.
- 6.5 The Supplier shall not be liable for any delay in or failure of delivery caused by:
 - 6.5.1 the Customer's failure to make the Location available;
 - 6.5.2 the Customer's failure to prepare the Location such that the Goods can be unloaded safely onto level and firm ground and access is by way of hardstanding suitable for heavy goods vehicles to traverse (or otherwise in accordance with the Supplier's specific instructions if any);

- 6.5.3 the Customer's failure to provide the Supplier with adequate instructions for delivery and unloading or otherwise relating to the Goods; or
- 6.5.4 Force Majeure.
- 6.6 If the Customer fails to accept delivery of the Goods or otherwise prevents the delivery due to breach of clauses 6.5.1, 6.5.2 or 6.5.3, the Supplier shall store and insure the Goods pending delivery, and the Customer shall pay storage and insurance charges at the Supplier's then-applicable rates.
- 6.7 If 20 Business Days following the due date for delivery or collection of the Goods, the Customer has not taken delivery of or collected them, the Supplier may resell or otherwise dispose of the Goods without any obligation or liability to the Customer, except as provided for in clauses 6.7.1 and 6.7.2. The Supplier shall:
- 6.7.1 deduct all storage charges at the Supplier's then-applicable rates and reasonable costs of resale; and
- 6.7.2 account to the Customer for the amount of the resale price (after the deduction referred to in clause 6.7.1) over, or invoice the Customer for any shortfall of the resale price below, the Price paid by the Customer for the Goods.
- 6.8 The Customer shall ensure that there is a safe and suitable access route for the delivery vehicle and personnel to the Location and to ensure that the Location conditions are suitable for the delivery to take place including there being no arial hazards such as cables..

7 Risk

Risk in the Goods shall pass to the Customer on delivery.

8 Title

- 8.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 8.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 8.2.1 hold the Goods as bailee for the Supplier;
- 8.2.2 store the Goods separately from all other material in the Customer's possession;
- 8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;
- 8.2.4 insure the Goods from the date of delivery: (i) with a reputable insurer; (ii) against all risks; (iii) for an amount at least equal to their Price; and (iv) noting the Supplier's interest on the policy;
- 8.2.5 ensure that the Goods are clearly identifiable as belonging to the Supplier;
- 8.2.6 not remove or alter any mark on or packaging of the Goods;

- 8.2.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 14.1.1 to **Error! Reference source not found.** or 14.2.1 to **Error! Reference source not found.**; and
- 8.2.8 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
- 8.3 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 14.1.1 to **Error! Reference source not found.** or 14.2.1 to **Error! Reference source not found.**, the Supplier may:
 - 8.3.1 require the Customer at the Customer's expense to re-deliver the Goods to the Supplier; and
 - 8.3.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9 Warranty

- 9.1 The Supplier warrants that the Goods shall, for a period of three months from delivery (the **Warranty Period**):
 - 9.1.1 conform in all material respects to the Order and the Specification this being consistent with a used container with scratches, marks and dents;
 - 9.1.2 be free from material defects in design and material although the Customer understands and acknowledges that the Goods are sold on a strict "as is" basis with scratches, marks and dents on the paintwork commonly being present and the Supplier makes no warranties or representations whatsoever express or implied as regards the fitness of the Goods for any particular purpose or use in any territory;
- 9.2 The Customer may reject any Goods that do not comply with clause 9.1, provided that the Customer:
 - 9.2.1 serves a written notice on the Supplier:
 - (a) during the Warranty Period in the case of defects discoverable by a physical inspection; or
 - (b) in the case of latent defects, during the Warranty Period; and
 - 9.2.2 provides the Supplier with sufficient information as to the nature and extent of the defects and the uses to which the Goods had been put prior to the defect arising;
 - 9.2.3 gives the Supplier a reasonable opportunity to examine the defective Goods; and
 - 9.2.4 at its own cost, returns any Goods rejected under clause 9.22. Risk and title in the rejected Goods shall pass back to the Supplier at the point at which the Goods are returned.
- 9.3 As the Customer's sole and exclusive remedy, as soon as reasonably practicable but in any event within ten Business Days after receiving a written notification in accordance with clause 9.22, the Supplier shall, at the Supplier's option:

- 9.3.1 repair or replace the Goods; or
- 9.3.2 provide the Customer with a full refund of the Price paid by the Customer for the Goods.
- 9.4 The provisions of these Conditions, including the warranties set out in clause 9.1, shall apply to any of the Goods that are repaired or replaced with effect from the date of delivery of the repaired or replaced Goods.
- 9.5 The Supplier shall not be liable for any breach of clause 9.1:
 - 9.5.1 where such failure arises as a result of wear and tear, the Customer's or a third party's wilful damage, or the Customer's or a third party's negligence, or could be expected to arise in the normal course of use of the Goods;
 - 9.5.2 to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;
 - 9.5.3 to the extent caused by the Supplier following any specification, instruction or requirement of or given by the Customer in relation to the Goods;
 - 9.5.4 where the Customer modifies any Goods without the Supplier's prior written consent or, having received such consent, not in accordance with the Supplier's instructions; or
 - 9.5.5 where the Customer uses any of the Goods after notifying the Supplier that they do not comply with clause 9.1.
- 9.6 Clauses 9.22 and 9.33 set out the Customer's sole and exclusive remedies (howsoever arising, whether in contract, tort, negligence or otherwise) for any breach by the Supplier of clause 9.1. Except as set out in this clause 9:
 - 9.6.1 the Supplier gives no warranties or undertakings and makes no representations in relation to the Goods;
 - 9.6.2 the Supplier shall have no liability for their failure to comply with clause 9.1; and
 - 9.6.3 all warranties, terms and conditions (including the conditions implied by sections 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by Applicable Law.

10 Anti-bribery

- 10.1 For the purposes of this clause 10 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
 - 10.2.1 all of its personnel;
 - 10.2.2 all others associated with it; and
 - 10.2.3 all of its subcontractors;

involved in performing the Contract so comply.

- 10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment or advantage or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
- 10.4 The Customer shall immediately notify the Supplier as soon as it becomes aware of a breach by the Customer of any of the requirements in this clause 10.

11 Indemnity and insurance

- 11.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liabilities, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.

12 Limitation of liability

- 12.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 12.
- 12.2 Subject to clauses **Error! Reference source not found.** and 12.5, the Supplier's total liability shall not exceed the value of the Price.
- 12.3 Subject to clauses **Error! Reference source not found.**, the Supplier shall not be liable for consequential, indirect or special losses.
- 12.4 Subject to clauses **Error! Reference source not found.**, the Supplier shall not be liable for any of the following (whether direct or indirect):
- 12.4.1 loss of profit;
 - 12.4.2 loss of revenue;
 - 12.4.3 loss or damage to equipment;
 - 12.4.4 loss of use;
 - 12.4.5 loss of production;
 - 12.4.6 loss of contract;
 - 12.4.7 loss of commercial opportunity;
 - 12.4.8 loss of savings, discount or rebate (whether actual or anticipated);
 - 12.4.9 harm to reputation or loss of goodwill; and/or
 - 12.4.10 loss of business;

12.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

12.5.1 death or personal injury caused by negligence;

12.5.2 fraud or fraudulent misrepresentation;

12.5.3 any other losses which cannot be excluded or limited by Applicable Law;

13 Force majeure

Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than 20 days, the party not affected may terminate the Contract by written notice to the other party.

14 Termination

14.1 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if:

14.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

14.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;

14.1.3 the Customer has failed to pay any amount due under the Contract on the due date; or

14.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:

14.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

14.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;

14.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

14.2.4 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;

14.2.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;

14.2.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;

14.2.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

14.2.8 has a resolution passed for its winding up;

- 14.2.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 14.2.10 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
- 14.2.11 has a freezing order made against it;
- 14.2.12 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items; or
- 14.2.13 is subject to any events or circumstances analogous to those in clauses 14.2.1 to 14.2.12 in any jurisdiction;
- 14.3 The Supplier may terminate the Contract at any time by giving not less than 14 days notice in writing to the Customer if the Customer undergoes a change of Control.
- 14.4 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 14, it shall immediately notify the Supplier in writing.
- 14.5 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

15 Cumulative remedies

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

16 Time

Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.

17 Entire agreement

- 17.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 17.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 17.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

18 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

19 Assignment

- 19.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, such consent not to be unreasonably withheld or delayed.

20 Set-off

- 20.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.
- 20.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

21 Severance

- 21.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 21.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

22 Waiver

- 22.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 22.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

23 Compliance with law

The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

24 Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, the terms of the Conditions shall prevail to the extent of the conflict.

25 Third party rights

- 25.1 Except as expressly provided for in clause 25.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

25.2 Any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

26 Governing law

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

27 Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).