

HIRE SCHEDULE

GATEWAY CONTAINER SALES AND HIRE PTY LTD



CUSTOMER DETAILS – PRIMARY CONTACT			
Surname			
Given Name/s			
Company Name (if applicable)			
ACN/ABN (if applicable)		Fax	
Phone		Mobile	
Postal Address			
Email			
Drivers Licence Number OR Passport Number	<i>(Please attach a copy to this document)</i>		

SECONDARY CONTACT (Compulsory)			
Surname			
Given Name/s			
Phone		Mobile	
Email			
Relationship to Hirer			

CONTAINER REQUIREMENTS			
Container Size		Container Size	
Container Type		Container Type	
Quantity		Quantity	

DELIVERY INSTRUCTIONS	
Delivery Date <small>(On-hire)</small>	
Estimated Collection Date <small>(Off-hire)</small>	
Delivery Address	
Site Contact Name	
Site Contact Phone	
Truck Type Required	TILT TRAY / SIDE LOADER / CRANE TRUCK
Container Door Position	CAB / REAR

CHARGES			
Delivery Transport Cost	\$	Collection Transport Cost	\$
Weekly Hire Charge	\$		

The Customer by signing this form, acknowledges and agrees to be bound by the terms and conditions overleaf.

Signature Date

Please fill out your details above and return to Gateway Container Sales and Hire Pty Ltd via Email (Preferred), Fax or Post.
FAX: (07) 3348 6588 EMAIL: sales@gatewaycontainerpark.com.au POST: PO Box 7034, Hemmant QLD 4174

The Owner agrees to hire the Container to the Customer on the terms and conditions overleaf.

Terms and Conditions – Hire

1. The Owner agrees to hire the Container to the Customer these terms and conditions. If the Customer wishes to hire the Container the Customer must complete and sign (or otherwise accept in the manner required by the Owner) a Hire Schedule and such other documents as the Owner may require. Each Hire Schedule is not a separate contract but forms a part of this Agreement between the Owner and the Customer.
2. By entering into an Agreement with the Owner, the Customer is taken to have:
 - (a) read, understood and agreed to be bound by these terms and conditions; and
 - (b) inspected the Container for defects and satisfied itself that the condition of the Container is fit for the Customer's intended purpose.

Definitions of Words in this Agreement

3. Terms defined below have the corresponding meaning when used in this Agreement:
 - (a) **Agreement** means the agreement comprised of the Hire Schedule and these terms and conditions, entered into by the Customer and the Owner.
 - (b) **Authority** means any Governmental or semi-Governmental or Local Government Authority, public agency, statutory corporation or other utility of legal entity having statutory right in respect of approvals.
 - (c) **Claim** means in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent.
 - (d) **Collateral** means the Personal Property and Other Property:
 - (i) of whatever kind and wherever situated;
 - (ii) whether the Customer is the beneficial owner of or holds it as trustee of a trust; and
 - (iii) whether the Customer holds it jointly or with one or more other persons (whether in partnership or not and whether named in this document or not).
 - (e) **Commencement** means the date upon which the Container is hired as specified in the Hire Schedule as the 'On Hire Date'.
 - (f) **Customer** means the person or entity specified in the Hire Schedule and includes the Customer's employees, executors, administrators and representatives.
 - (g) **Container** means any kind of Container or Containers hired by the Customer from the Owner from time to time.
 - (h) **Delivery Address** means the address where the Container is to be delivered to as specified in the Hire Schedule.
 - (i) **Goods** means the property from time to time stored in the Container.
 - (j) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
 - (k) **Hire Charge** means the amount specified in the Hire Schedule payable by the Customer to hire the Container.
 - (l) **Hire Period** means the period from the Commencement until the conclusion of the hire as specified in the Hire Schedule. The Owner may issue and require the Customer to sign an amended Hire Schedule for any extension of the Hire Period.
 - (m) **Hire Schedule** means the document that specifies the number of Containers to be hired, the Hire Period, the Hire Charge and other details relating to the hire of the Container.
 - (n) **Other Property** means all the Customer's present and after-acquired rights and interests in land and any other property, rights and interests that is not Personal Property.
 - (o) **Owner** means Gateway Container Sales and Hire Pty Ltd as trustee for the Gateway Trust (ABN 50 304 968 435) and its Personnel.
 - (p) **Personnel** in relation to a party means the party's officers, office-holders, employees, agents and contractors.
 - (q) **Personal Property** means all of the Customer's present and after-acquired personal property (as defined in the PPS Act and to which the PPS Act applies) and all present and after-acquired personal property (as defined in the PPS Act and to which the PPS Act applies) in which the Customer has rights.
 - (r) **PPS Act** means the Personal Property Securities Act 2009 (Cth).
 - (s) **Tax Invoice** has the same meaning as in the GST Act.

The Owner's Obligations

4. The Owner will:
 - (a) provide the Customer with a Container for the Hire Period;
 - (b) provide the Container to the Customer in a clean condition and in good repair;
 - (c) arrange for the Container to be delivered to the Customer at the Commencement of the Hire Period at the Customer's expense; and
 - (d) arrange for the Container to be returned to the Owner at the end of the Hire Period at the Customer's expense.

Obligations of the Customer

5. The Customer:
 - (a) must ensure that the Owner is granted unfettered access to the Delivery Address for delivery and collection of the Container;
 - (b) must maintain the Container in good repair and condition, fair wear and tear excepted;
 - (c) must ensure the Container is at all times stored safely and protected from theft, loss or damage and is used in accordance with the manufacturer's guidelines;
 - (d) warrants that only Goods owned by the Customer will be stored in the Container unless otherwise agreed in writing with the Owner;
 - (e) must not move or cause the Container to be moved from the Delivery Address without first obtaining prior written consent from the Owner;
 - (f) must immediately notify the Owner of any loss, theft or damage to the Container;
 - (g) provide the Owner with unfettered access to the premises where the Container is located in order to inspect the Container by giving 24 hours' notice to the Customer, or inspect or repossess the Container or exercise any of its rights under this Agreement without notice to the Customer if the Customer is in default of its obligations under this Agreement;
 - (h) must not use the Container to store anything of a noxious, flammable, hazardous, dangerous or explosive nature without first obtaining the Owner's consent which may be withheld at the Owner's discretion;
 - (i) must not repair, modify or alter the Container in any manner without the Owners prior written consent;
 - (j) must remove all Goods from the Container at the end of the Hire Period; and
 - (k) must ensure the Container is in a clean state including free from graffiti, labels and other markings and in good repair at the end of the Hire Period.

Payments by the Customer to the Owner

6. Subject to any other agreement between the parties and unless specified by the Owner in writing, the Hire Charge must be paid by the Customer and is due for payment within 7 days of the date that the Owner delivers a Tax Invoice to the Customer for the hire of the Container.
7. If the Customer does not pay the Hire Charge by the due date for payment under this Agreement, the Owner may charge the Customer interest on the outstanding amount calculated daily at 10% per month on all amounts owing by the Customer until the outstanding amount is paid in full.
8. The Owner may vary the interest rate under clause 7 from time to time by notifying the Customer.
9. The Customer must pay all amounts specified on the Tax Invoice, including the Hire Charge and:
 - (a) the replacement value of any Container which is for whatever reason not returned to the Owner, whether by theft or loss or some other reason;
 - (b) all costs incurred in cleaning the Container, including the removal of labels and graffiti and other markings, if the Container is not returned to the Owner in a clean state;
 - (c) the cost of transporting the Container to and from the Delivery Address;
 - (d) the cost of any delays associated with the transportation of the Container as a result of issues with access to the Delivery Address;
 - (e) the cost of repairing any damage to the Container, unless expressly agreed otherwise in this Contract;
 - (f) stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Agreement or arising from the Owner's supply or the Customer's use of the Container;
 - (g) all costs associated with or incurred by the Owner in recovering possession of the Container;
 - (h) a late payment fee calculated daily at 10% per month on all amounts owing by the Customer not paid on time;
 - (i) any additional Hire Charges; and

- (j) any costs and expenses incurred by the Owner in enforcing this Agreement (including legal costs on an indemnity basis).
10. If the delivery of the Container is delayed at the Customer's request or as a result of any act or omission on the part of the Customer, the Hire Charge will be due and payable from the date specified in the Hire Period as the Commencement Date.
11. If the Customer terminates this Agreement before the end of the Hire Period, the Customer will pay the Hire Charge to the Owner, plus all other associated amounts, in respect of the balance of the Hire Period as if this Agreement had not been terminated. The Customer agrees that this is a genuine pre-estimate of the loss that the Owner will suffer as a result of the Customer's early termination of this Agreement.
12. If the return of the Container to the Owner is delayed for any reason whatsoever, the Customer will be liable for additional Hire Rates that continue to accrue until the Container is returned to the Owner.
13. All payments made by the Customer must be made without set-off or deduction.

PPS Act

14. All terms capitalised in this clause that are not defined in this Agreement take their meaning as defined in the PPS Act.
15. For the purpose of securing payment of the Hire Charge and the performance of the Customer's obligations under this Agreement, the Customer:
- (a) grants a Security Interest in the Personal Property to the Owner; and
- (b) charges the Other Property to the Owner by way of fixed charge (**Charge**).
- The Customer does this as beneficial owner unless the Customer has informed the Owner that the Customer enters into this Agreement as trustee of a trust. If the Customer enters into this Agreement as trustee of the trust, the Customer does this as sole trustee of the trust for all the Collateral comprising the trust fund of the trust and the Customer does this as beneficial owner for all the other Collateral.
16. Where the Customer holds the Collateral jointly with one or more others, whether or not named in this Agreement and whether in partnership, joint venture or otherwise, and the Owner holds a Security Interest from all such other persons, whether under this Agreement or under any other security instruments, the Customer acknowledges that such Security Interests, constitute a Security Interest over all the assets of the firm, partnership or joint venture.
17. The Customer agrees upon request by the Owner, to deliver to the Owner an executed mortgage over any property subject to the Charge (**Mortgaged Property**) or instrument of encumbrance in registrable form that incorporates the Owner's standard covenants as prepared by the Owner's solicitors, and as the Owner may require to be executed by the Customer. In the event that the Customer should neglect or fail to deliver the requested instrument or security, the Customer hereby irrevocably appoints the Owner and any solicitor nominated by the Owner severally to be the Customer's lawful attorney to execute, obtain and/or register a mortgage or caveat, withdrawal of caveat or other security to support the Charge in respect of the Mortgaged Property. If the Charge created by this clause is or becomes void or unenforceable, it may be severed from these Terms and conditions without any effect on their validity and the Customer will not be exonerated from complying with this Agreement in whole or in part.
18. This Agreement:
- (a) constitutes a Security Agreement for the purposes of the PPS Act; and
- (b) creates a Security Interest in the Collateral, including:
- (i) any Container previously supplied by the Owner to the Customer; and
- (ii) all future Containers supplied by the Owner to the Customer.
19. The Customer must do all things necessary to assist the Owner to continuously perfect any Security Interest arising under this Agreement, including signing any documents or providing any information the Owner reasonably requests for the purposes of protecting its interest under the PPS Act.
20. The Security Interest granted by this Agreement Attaches to the Personal Property in accordance with the PPS Act and the parties confirm that they have not agreed that any Security Interest granted by this Agreement Attaches at any later time.
21. Any PPS Lease Security Interest in a Container supplied by the Owner to the Customer will constitute a Purchase Money Security Interest (**PMSI**).
22. The PMSI will continue for any goods coming into existence or for the Proceeds from the sale of the Container.
23. The Customer will not or will not permit any Security Interest to be created in the Container without the Owner's written consent.
24. If a Container supplied by the Owner to the Customer is Commingled with any other property, the Owner will have a Security Interest in those Commingled goods including the Container supplied under this Agreement.
25. The Customer must not lodge or permit the lodgement of a Financing Change Statement or an Amendment Demand in respect of a Security Interest granted under this Agreement without the Owner's consent.
26. The Customer must immediately notify the Owner in writing of any change in the Customer's name or other identifying characteristics of the Customer or the Container in which the Owner holds any Security Interest.
27. The Owner must at the request of the Customer release the Collateral if the Hire Charge, along with any other outstanding fee, has been paid in full, and all obligations owed by the Customer to the Owner have been satisfied and, in the Owner's, reasonable opinion:
- (a) no money will become owing in the future whether actually or contingently from any current transaction or circumstance between the Customer and the owner; and
- (b) no payment to satisfy the Customer's obligations to pay the Owner is likely to be void, voidable or refundable under any relevant law.
28. To the maximum extent permitted by the PPS Act:
- (a) the Owner does not have to give a notice to the Customer of any action the Owner takes in accordance with sections 95 or 121(4) of the PPS Act;
- (b) the Owner does not have to give a notice under section 130 of the PPS Act;
- (c) the Owner does not have to give the details required under section 132(3)(d) of the PPS Act;
- (d) the Owner does not have to give a written statement of account under section 132(4) of the PPS Act;
- (e) the Owner does not have to give a notice required under section 135 of the PPS Act;
- (f) no person can redeem the Security Interest in the Collateral under section 142 of the PPS Act without the Owner's consent; and
- (g) no person may reinstate the Security Agreement under section 143 of the PPS Act without the Owner's consent.
29. For the purposes of section 275(6) of the PPS Act, the Customer must keep confidential any information relating to this Agreement which is in the nature of information which an interested person could access under section 275(1) of the PPS Act.

Defects in the Container

30. The Container will be deemed received by the Customer in good condition unless written notice of defects is received by the Owner within two (2) days of the Container being delivered to the Customer at the Commencement of the Hire Period.
31. The Customer must store the Container in a manner that preserves the condition and integrity of the Container. The Owner is not responsible for any damage to goods stored within the Container as a result of the failure of the Customer to maintain the Container.

Breach of Agreement by Customer

32. If the Customer becomes bankrupt, insolvent, ceases business or breaches any term of the Agreement then the Owner will be entitled to immediately:
- (a) terminate this Agreement; and/or
- (b) sue for recovery of all monies owing by the Customer, and/or
- (c) repossess and remove the Container (and is authorised to enter any premises where the Container is located to do so); and/or
- (d) exercise any or all of its other rights in accordance with the law.
33. The Owner may terminate this Agreement without penalty if, for any reason, it considers that it cannot supply the Container to the Customer.
34. Upon termination of this Agreement:
- (a) all amounts owing by the Customer, whether actually or contingently, become payable; and
- (b) the Customer must do all things necessary to ensure the return of the Container in its possession or control to the Owner within seven (7) days.
35. The Owner may terminate this Agreement at its sole discretion prior to delivery of the Container to the Customer if it receives a credit assessment of the Customer that is considered to be unsatisfactory.

Removal of Container

36. The Customer grants the Owner unfettered access to the Delivery Address to:
- (a) remove the Container where this Agreement permits the Owner to do so;

- (b) remove the Container where such actions are, in the Owner's opinion, necessary to safeguard and secure the Container;
 - (c) remove the Container where a landlord requests the Container to be removed from its property; and
 - (d) remove the Container where the Customer is unable to be contacted for a period exceeding 30 days.
37. Upon the end of the Hire Period or earlier termination, the Customer agrees to return the Container to the Owner free from any Goods, failing which the Customer irrevocably appoints the Owner as its agent to remove the Goods at the Customer's expense.
38. The Customer acknowledges and agrees that the Owner is not liable for any loss or damage occasioned to the Goods where they are removed in the circumstances referred to in clause 37.
39. The Customer acknowledges and agrees that the Owner is under no obligation to ensure the safe storage of the Goods where they are removed in the circumstances referred to in clause 37 above and the Owner is entitled to leave the Goods at the Delivery Address or any other premises occupied by the Customer or sell the Goods and apply the proceeds of sale to the payment of any outstanding Hire Charges.

Limitation of Liability

40. The Owner gives no warranties and makes no representations whatsoever relating to the Container's condition, quality, suitability or fitness for any ordinary or special use of the Container.
41. Nothing in this Agreement excludes, restricts or modifies any rights the Customer may have under the Australian Consumer Law or any other law which operates to protect the hirers of goods in various circumstances.
42. To the extent permitted by law, all express or implied warranties, representations, statements, terms and conditions relating to this Agreement that are not contained in this Agreement are excluded.
43. Without limiting the exclusion of liability or implied terms, when the Owner can limit the Customer's remedy for a breach of an implied term, condition or warranty, then the Owner's liability for breach of the term, condition or warranty is limited to one or more of the following at the Owner's option:
- (a) the replacement of the Container;
 - (b) the repair of the Container;
 - (c) a refund of the Hire Charge for the relevant period;
 - (d) the payment of the cost of replacing the Container for hire; or
 - (e) the payment of the cost of having the Container repaired for hire.
44. To the extent permitted by law, the Owner's liability under this Agreement is limited to the supplying of the Container again to the Customer or to the repair of the Container at the Owner's expense.
45. To the extent permitted by law, the Owner is not liable for (under any circumstances):
- (a) special, indirect, consequential, incidental or punitive damages; or
 - (b) damages for loss of profits, revenue, goodwill, bargain, anticipated savings or loss, personal injury, death, the costs arising from the loss of use of the Container and the costs of any substitute Container that the Customer obtains.
46. The Owner will not be liable to the Customer or any third party for:
- (a) any loss or damage that the Customer suffers arising from, or caused or contributed to by, the Owner's negligence or the negligence of the Owner's agents or servants; or
 - (b) special, indirect or consequential loss or damage as a result of a breach by the Owner of this agreement including, without limitation, loss of profits or revenue, personal injury, death, the costs arising from the loss of use of the Container and the costs of any substitute Container that the Customer obtains.

Disputes

47. The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to the Owner in writing within 30 days of the date of the Tax Invoice. In the event that no communication is received from the Customer within that 30-day period, the Hire Charges are deemed to be accepted by the Customer.

Risk

48. The Customer holds the Container as a lessee only and title to and in the Container remains with the Owner at all times.
49. The Container will be entirely at the risk of the Customer from the moment it leaves the Owner's premises or control and until it is returned to the Owner's address or an address nominated by the Owner.
50. The Container is provided to the Customer at its own risk and the Customer agrees to indemnify and keep indemnified the Owner and its Personnel against any Claim incurred or suffered as a result of:
- (a) the transport and possession and use of the Container;
 - (b) any act or omission on the part of the Customer or its Personnel;
 - (c) a breach of this Agreement by the Customer;
 - (d) any act with respect to repossessing the Container;
 - (e) a breach or non-compliance with any legislation, statute, ordinance, regulation, by-law or order made thereunder or other lawful requirement of any Authority; and/or
 - (f) any loss or damage to the Container and/or the Goods.

Insurance

51. The Customer must take out and maintain insurance against loss or damage to the Goods.
52. The Customer must take out and maintain, in the names of both the Owner and the Customer:
- (a) Insurance against loss or damage to the Container by fire, theft or accident during the Hire Period (the limit of which insurance must be for an amount not less than the replacement value of the Container);
 - (b) a comprehensive public liability policy to cover all sums that the Customer may become legally liable to pay as compensation consequent upon; death of, or bodily injury (including disease or illness) to any person; and;
 - (c) loss of, or damage to, property, happening anywhere arising out of or in connection with the hire of the Container.
53. During the Hire Period, the Customer must not do any act or thing which might invalidate or prejudice any such insurance or the Owner's interest in the Container.
54. The Customer must produce a current certificate of insurance to and when requested by the Owner with seven (7) days of such a request.

Governing Law

55. The Owner and the Customer agree that this Agreement will be construed in accordance with the laws in force in Queensland and the parties submit to the jurisdiction of the Courts of Queensland.

Miscellaneous

56. The Customer must not assign or sub-contract all or any of its rights under the Agreement.
57. This Agreement may be changed from time to time by the Owner giving notice of the amendment to the Customer by posting alterations to the terms and conditions on the Owner's website.