A Wherry Plant Hire (A Wherry Container Sales) – Terms and Conditions

1. Hires
We are letting to you, and you are taking on the hire of the equipment and accessories ("Hire Goods").

2. Self Storage
We are licensing you to use the numbered storage container and the defined area of land occupied by it ("Storage Facilities") for the storage of goods in accordance with these terms and conditions and to have access to the Storage Facilities during normal working hours only for the purposes of depositing, removing, substituting or inspecting such goods.

3. Periods of Hire
For Hires and Self-Storage, the period of hire shall be specified ("Initial Fixed Period") or if no period is specified, shall be deemed to be for successive 28 day periods ("Recurring Period"). Unless the Initial Fixed Period is for less than 28 days the minimum hire period is for 28 days from date of delivery. If you use or allow the Hire Goods or Storage Facilities to be used after the Initial Fixed Period has ended you agree to hire the Hire Goods or Storage Facilities for a further Recurring Period of 28 days and pay additional charges for rental and any other reasonable expenditure we incur.

4. Sales
We shall sell to you and you shall buy the equipment and accessories ("Sale Goods") and/or the services ("Services") described in our offering and in accordance with the specification or description set out during the purchasing process. Containers/units for sale are categorised in accordance with their age and condition and this category is agreed during the sales process, therefore all goods purchased are sold as seen.
All sale items remain the property of Anthony Wherry until such time full payment for the full inventory of the sale has been received into the A Wherry Business Account bank account and for such purposes all listed items in the sale will be regarded as the whole sale price to be credited.

5. Receipt of Services
Sales, Hires and Self-Storage are subject to these terms and conditions ("Conditions"), which apply to the exclusion of all other terms and conditions, including any you may seek to apply. Your acceptance of delivery of the Hire Goods or Sale Goods; the receipt of the Services; or the occupation of Storage Facilities is conclusive evidence that you accept these Conditions, if you have not previously accepted them in writing. Any variation of these Conditions (including any special terms and conditions) shall not be binding unless it is in writing and signed by an authorised representative of ours.

6. Contractual Acceptance of Order
No binding contract shall exist, until we have sent you a note of our acceptance of your order, from an authorised representative of ours or upon delivery of Sales Goods or Hire Goods; receipt of the Services; or your occupation of Storage Facilities, whichever is the sooner. In these Conditions, "Contract" means the contract entered into in accordance with this clause.

7. Cancellation/amendment to order

You may not cancel or change any order, delivery or collection, unless we agree in writing and on terms that you indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses we incur as a result of your cancellation or change.

8. Changes of Specification

We may change the specification of Sale Goods because of changes imposed on us by our supplier or which are required to conform with any applicable laws or requirements or, where we are supplying to our specification, which do not materially affect their quality or performance.

Where we supply Sale Goods or Services to your specifications or design, you are responsible for ensuring that they are safe without risk to health and comply with all applicable laws and requirements. You agree to indemnify us for any loss, fine, expense, award, damages, costs or penalties we incur in connection with any claim for infringement of any intellectual property rights of any other person which results from us complying with your specifications or designs.

9. Invoicing in Advance

Hires and Self-Storage: Unless we notify you otherwise, the rent for the Hire Goods or Storage Facilities together with all applicable taxes and additional charges ("Rentals") shall be invoiced to you in advance every 28 days. Unless otherwise agreed in writing, rental payments are quoted on the basis of a 28 day month. We may increase the amount payable under the Rentals on giving you at least 7 working days' prior written notice. We will not increase those amounts during the minimum hire period set out in clause 3, except for a reason outside our control or because of a VAT rate increase.

10. Pricing

For Sale Goods and Services, the "Price" (which includes, where specifically indicated, transport, packing, and additional labour costs) is the price we confirm upon acceptance of your order. We may increase the Price, to reflect any increase in our costs, by giving you notice at any time before delivery.

11. Invoicing

We may invoice you the Price at any time on or after delivery of the Sale Goods or provision of the Services or the Deemed Delivery Date, whichever occurs first. If you wrongfully fail to take delivery of the Sale Goods or Services. We may invoice you the Price at any time after tendering delivery. We will invoice you on the first invoice, the delivery, the collection and any stacking/de-stacking charges as appropriate.

12. Payment of Invoices

You shall pay the Rentals and/or the Price immediately and in full upon receipt of our invoice, unless we have agreed a credit facility, in which case you shall pay in full within 30 days of the date of invoice. Any payments you send us by post are at your own risk. The Rental and the Price do not include VAT, which you shall pay in addition at same time you pay the Rentals and/or Price.

12a. Payment in full
On the due date of all payments under this Contract is of the essence of this Contract. If you don't make payment in full when due, we may charge you interest on the amount unpaid and claim compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

13. Delivery of Hire Goods
Sale Goods and Services shall be to the place specified upon acceptance of your order. If loading or unloading takes longer than 30 minutes, you shall pay us further charges at our rates applicable at time of delivery per vehicle per extra hour or part hour over and above the first 30 minutes.

14. Deliveries/Collection Dates and Locations
Any delivery dates are approximate only and the time for delivery shall not be of the essence. We may deliver Sale Goods in advance of the delivery date upon giving you reasonable prior notice. Our deliveries and collections are sub-contracted out to third parties. Where the Hire Goods or Sale Goods are to be delivered to or collected from a place other than our own premises, in respect of the Hire Goods you shall pay us direct (unless otherwise stated) the charges set out, together with any other costs otherwise incurred by us for delivery and collection, including any specified craneage, erection and dismantling charges and in respect of Sale Goods provide and pay for all unloading facilities needed for the delivery of the Sale Goods including special equipment. You shall also provide: adequate access for all necessary vehicles and equipment; competent staff as needed; a suitable hard standing structure for offloading; a suitable base for the Hire Goods to rest on; suitable site conditions to accommodate the Hire Goods throughout the duration of this Contract; any lifting or other facilities required for siting or removal of the Hire Goods. Unless otherwise agreed, you are responsible for the safe loading and unloading of Hire Goods or Sale Goods, wherever they are located, and for any damage caused as a result of such loading and unloading.

15. Connection of Utilities
You are responsible for connection, disconnection and suitability of mains services to the Hire Goods on the site. You shall ensure that only suitably qualified people carry out that connection or disconnection, and you shall be liable for any damage caused to the Hire Goods during connection or disconnection.

15a. Toilet tanks
Are included in the connection and disconnection conditions of hire and all tanks are to be returned having been disconnected and emptied.

16. Working on Your Site
If the supply of Sale Goods and Services includes us working on your site to fit out the Sale Goods or to provide the Services, the Deemed Delivery Date shall be the earlier of: acceptance of the Sale Goods or Services by one of your employees or agents; our completion of the Services; any of your employees or agents entering any part of the Sale Goods to store items or carry out work; any act or omission of yours which may reasonably be described as indicating you accept the Sale Goods.

17. Additional Costs incurred
You shall meet any costs or expenses we incur arising from your failure to meet your obligations in clauses 19 and 20 below.

18. Receipt of Goods by You
You shall inspect Hire Goods and Sale Goods on delivery and Storage Facilities on occupation. If you do not give us a written notice within 24 hours of delivery or occupation, specifying any defects in the Hire Goods or Storage Facilities or defects or failure to correspond with description in the Sale Goods, it shall be conclusively presumed that they are in good condition and repair, and correspond with description, except for latent defects not apparent on reasonable inspection. You shall notify latent defects to us in writing within 24 hours of becoming aware of them. If you do not refuse delivery of Sale Goods or notify us in accordance with this clause, you shall not be entitled to reject the Sale Goods.

19. Claims for defects
If you notify us of a valid claim for a defect in accordance with clause 21, we will, at our option, either replace or repair the Hire Goods, Storage Facilities or Sale Goods (at no charge to you) as soon as is practicable or, in the case of Sale Goods, refund the Price. We shall then have no further liability to you.

20. Failed Delivery and Liability
If we fail to deliver Sale Goods or any part of them for any reason, other than for any cause beyond our reasonable control or your fault, our liability is limited to the excess (if any) of the cost to you (in the cheapest available market), over the Price, of similar goods and/or services to replace those not delivered.

21. Receipt of a Delivery
If you do not take delivery of Sale Goods or fail to give us adequate delivery instructions at the time stated for delivery (other than for any cause beyond your reasonable control or your fault) then, without prejudice to any other right or remedy available to us, we may: store the Sale Goods until actual delivery and charge you for the reasonable costs of storage; and sell the Sale Goods at the best price obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the Price or charge you for any shortfall below the Price.

22. Asset Ownership
Hire Goods and Storage Facilities remain our property at all times and you have no rights in them apart from as set out in these Conditions. You shall not sell, sub-hire, charge by way of security or dispose of the Hire Goods or Storage Facilities nor allow them to be seized in satisfaction of your debts or for any other legal process. You agree to indemnify us against all losses, costs, claims, damage and expenses, occasioned by your breach of this clause.

23. Safe Keeping of Goods Delivered
You are responsible for the safety, safe use, and safe keeping of the Hire Goods or Storage Facilities from the time we deliver them or we are deemed to have delivered them to you until the time we collect them; the occupation of the Storage Facilities

terminates; or they are otherwise returned to us. You shall insure the Hire Goods with a reputable insurer against any loss for at least the full cost of replacing them as new (including total loss); against damage from all risks; and against claims for injury, loss or damage caused by the Hire Goods. You shall show us proof of insurance if we ask for it. If you do not insure or show us proof of insurance when we ask for it, we may insure the Hire Goods ourselves and charge you the cost of this. You agree to reimburse us with that cost, immediately when we demand it. You shall immediately notify us of any event concerning the Hire Goods involving injury to persons or property. If you make any insurance claim relating to the Hire Goods, you shall tell us straight away. Whether covered by insurance or not, you shall not agree the settlement of any claims without our written permission. Any payment to be received in settlement of any claim on the Hire Goods must be made to us.

23a. Damages and deficiencies to/from hired goods noted upon return to us. You shall notify us of damages and or deficiencies from any unit within 14 working days of return to our facility and photographic evidence of the said damage will be provided to you. Cost of damages and replacement of goods, will be carried out by sub-contractors and will be a cost covered by yourself. Quotes and evaluations will be provided to you as proof of costings, these will include an A Wherry Plant Hire administration fee also.

24. Moving of Delivered Goods Elsewhere

You shall not remove the Hire Goods from the delivery address specified nor any part of the Storage Facilities from our premises or move, lift or reset them without our prior written consent and you shall at all times keep the Hire Goods in your possession. You shall not make any alterations or modifications to the Hire Goods or Storage Facilities, nor remove any parts of them, nor attach anything to their walls without our prior written consent. You shall not remove, deface, alter or cover up any nameplate or other mark on the Hire Goods or Storage Facilities or any notices, which give warnings, information or instructions about the use of the Hire Goods or Storage Facilities.

25. Reimbursement of Losses

You agree to indemnify us for any loss, cost or expense we suffer, arising from your possession or use of the Hire Goods or Storage Facilities or our repossession of them under these Conditions. If you request out of hours access to the Storage Facilities, we may grant such access in our sole discretion and you shall pay us a fee at our then prevailing rate for such access.

26. Proper State of Cleanliness and Repair

You shall keep the Hire Goods or Storage Facilities clean, properly maintained and in the same good condition in which they were delivered to you (except for fair wear and tear and damage resulting from inherent defects). In times of severe weather, you shall take such extra precautions as may be necessary, to ensure there is no deterioration in the Hire Goods or Storage Facilities and they are not damaged.

You shall not use the Storage Facilities for anything other than storage. You shall not store in them any corrosive, hazardous, explosive, inflammable, combustible, toxic, dangerous, odor-emitting, illegal or perishable goods, nor any livestock. For the avoidance of doubt, we accept no responsibility for any loss or damage to any material

or equipment used on or with or stored in the Storage Facilities (including, by way of example, items described as heirlooms, jewellery, works of art or similar).

27. Need for Repairs

You shall inform us immediately if the Hire Goods or Storage Facilities fail or need repair. You shall not try to repair them. We shall carry out any necessary repair or replacement, at our sole discretion. If the failure of the Hire Goods or Storage Facilities or need for repair is caused by your misuse, negligence, or by vandalism, you shall be liable for the cost of their repair or replacement, and for any other loss or damage we reasonably incur as a result.

28. In Use Statutes, Licenses and Permissions

You are responsible for complying with the provisions of all statutes and the requirements of any competent authority relating to the Hire Goods and their use, and for obtaining and complying with all planning permissions, licenses, permissions and approvals, necessary for your use of the Hire Goods.

29. Access to Hired Goods by the Owner

You shall permit us access to the Hire Goods or Storage Facilities at all times to inspect, repair, remove or repossess them. We may require you to move goods stored in the Storage Facilities to another part of our site upon our giving you reasonable notice, save in the case of emergency, when no notice shall be required.

30. Liability upon Delivery

Risk of damage to or loss of the Sale Goods passes to you on delivery or, if you wrongfully fail to take delivery of the Sale Goods, the time we tender delivery.
Property in the Sale Goods shall not pass from us until we have received cash or cleared funds in full from you for the Price and any other sums whatever you owe us.
Until property in the Sale Goods passes to you, you shall hold the Sale Goods and each of them on a fiduciary basis as bailee for us. You shall store them (at no cost to us) on your own premises, separately from all other goods in your possession. You shall mark them so that they are clearly identified as our property. You may resell or use them in the ordinary course of your business, provided that you hold any proceeds of sale in trust for us.
Until property in the Sale Goods passes to you, you shall, upon our request, deliver up to us such of the Sale Goods as still exist and have not been resold. If you do not do so, we may enter any premises you own, occupy or control where the Sale Goods are located and repossess them. When we make such a request, your rights of resale or use under clause 33 shall cease.

31. Pledges as Security

You shall not pledge or in any way charge by way of security for any indebtedness any of the Sale Goods or Hire Goods we own. You shall insure the Sale Goods and Hire Goods and keep them insured to the full Price against all risks until property in the Sale Goods or Hire Goods passes from us to you. You shall produce a copy of the policy of insurance to us whenever we request. Without prejudice to our other rights if you do so, all sums you owe us shall immediately become due and payable if you breach the terms of this clause.

32. Warranties
Except where we give you express warranties in writing or where warranties are given elsewhere in these Conditions, if you are entering the contract with us in the course of your business, we specifically exclude from the Contract all warranties, representations, terms, conditions and duties implied by law or otherwise to the fullest extent permitted by law.

33. Limit of Liability for Losses
Except in the respect of death or personal injury caused by our negligence, or for liability for defective goods under the Consumer Protection Act 1987, we shall have no liability to you for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise) or costs expenses or other claims for compensation whatsoever (whether caused by our negligence, the negligence of our employees or agents, or otherwise) resulting from the supply or delay in supply of the Hire Goods, Storage Facilities, Sale Goods or Services to you or from their use by you or, in the case of Sale Goods, their resale by you.

34. Loss or Damage Liability
We accept no responsibility for any loss or damage to any material or equipment used on or with or stored in the Hire Goods or Storage Facilities.

35. Breach of Contract
We shall not be liable to you or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure in performing any of our obligations in whole or part in relation to Hire Goods, Storage Facilities, Sale Goods or Services if the delay or failure was due to any cause beyond our reasonable control.

36. Security Deposits
Hires and Self-Storage: You agree to pay in advance any security deposit if agreed. The security deposit will be returned within 30 days of the Hire Goods' or Storage Facilities' return in undamaged condition, but we may apply such deposit to any other amounts owed by you.

37. Cancellation of Contract by Us
For Hires and Self-Storage, notwithstanding anything contained in these Conditions, we may end this Contract by giving you 7 days' written notice of termination to expire any time after the minimum period of hire has expired. Subject to clause 1, you may end this Contract by 7 days' written notice expiring at any time after the minimum period of hire has expired, or by 7 days' written counter notice, if we give you notice during the minimum period of hire of any increase in Rental other than that occasioned by an increase in the rate of VAT or for any reason outside our control.

37a. Immediate Cancellation of a Contract.
We may immediately end this Contract (and collect payment from you) if you do not pay any Rental for Hire Goods or Storage Facilities or the Price for Sale Goods or Services when due, or if you commit any other breach of this Contract and do not remedy it within 14 days after we have brought it to your attention, or if you suffer a petition for a bankruptcy order to be presented, or call any meeting of your creditors,

or execute any assignment for their benefit, or being a company, become insolvent, or if an order is made or a resolution is passed for your winding up, or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of your assets or business, or if you make any composition with your creditors or take or suffer any similar or analogous action in consequence of debt.

37b. If we end the Contract

We may suspend any further deliveries of Sale Goods or the provision of Services without any liability to you. Any sums whatsoever due but unpaid on Hire Goods, Storage Facilities, Sale Goods or Services up to the day we end this Contract shall become immediately due and payable.

37c. If the Contract is for a fixed hire period of over 28 days

You shall, upon termination, pay us all Rentals you should have paid had the Contract continued. Upon your written application, we reserve the right to apply a discount at the rate of 2% on each Rental from the date it would have fallen due to the date the Contract would have ended under the agreed fixed hire period. There shall be no return of Rental if, for whatever reason, the Hire Goods or Storage Facilities are surrendered to us within 28 days of the commencement of the Contract or during the Recurring Period, as applicable.

37d. When this Contract terminates

You shall give 7 working days' notice of our requirement to collect the Hire Goods/Storage Facilities. You shall surrender up the Hire Goods or Storage Facilities to us in good condition (fair wear and tear excepted). If collection transport is required, you must give us a minimum notice of 48 hours. Hire Goods or Storage Facilities must not be returned with any hazardous material or items in them. You shall be liable for the cost of any repairs, replacement of furniture and cleaning of the Hire Goods or Storage Facilities shall be invoiced where the extent of cleaning is determined to beyond reasonable and will include work of an objectional nature. Invoicing for the disposal of any material or items (hazardous or otherwise) which you fail to remove from the Hire Goods or Storage Facilities. If you do not surrender up and return the Hire Goods/Storage Facilities to us, we may enter upon any of your premises or onto the premises of a third party where the goods/facilities are located and repossess them, detaching or removing them if necessary from any other goods.

37e. Sale or Disposal of Stored goods not removed

If any valuables, objects or other items are found in the Hire Goods or Storage Facilities once the Hire Goods or Storage Facilities are collected by us on termination or expiry of the Contract the following provisions shall apply:

Where there are no outstanding sums from you to us – if you fail to collect any such items we may give notice in writing to you of our intention to sell or otherwise disposal of such items if you do not take delivery of such items within 3 days of the date of the notice. On the expiry of such period, we shall be entitled to sell or otherwise dispose of all or some of the items of which you do not take delivery, as your agent and at your expense and risk, and shall remit the proceeds of sale or disposal of such items to you (after deduction of any amounts due to us from you and

the expenses incurred by us for the sale or disposal of the items, including reasonable storage costs).
Where there are outstanding sums owed by you to us – we shall have a general and particular lien on the goods in our possession as security for payment of all sums claimed by us from you. If any sums claimed by us remain unpaid, we may, without prejudice to our other rights and remedies, give notice in writing to you of our intention to sell or otherwise dispose of some or all of the goods in our possession if the amount outstanding is not paid in full within 10 working days. If the amount due is not paid by the expiry of such period, we may sell or otherwise dispose of some or all of the goods in our possession as your agent and at your expense and risk and shall remit the proceeds of sale or disposal of such goods to you (after deduction of all amounts due to you and the expenses incurred by us relating to the sale or disposal of the goods, including reasonable storage costs). We shall not be liable for the price obtained for the sale or disposal of the goods.

37f. Non-Payment of Fees Owed and Period of Retention of Hire Goods by us/Access Denial.
We reserve the right to deny access to any Hire Goods/Storage facilities to you (by way of lock up) where fees owed have not been paid and this action will be taken upon the 8th day (or soon thereafter), after any final demand for payment. You agree that access to the Hire Goods/Storage facilities by us shall not be impeded and the Hire Goods/Storage facilities shall remain accessible to the owner. Also refer to clause 39 below.

38. Assigning the Benefit of the Contract
We may at any time assign the benefit of this Contract. This Contract is personal to you and you may not transfer your obligations or benefits under it. Where there is more than one of you, each of you is jointly and severally responsible for performance of this Contract.

39. Rights of Third Parties
Any rights conferred upon third parties by reason of the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be excluded.

40. Waiver
No waiver by us of any breach of this Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

41. Judicial Statements or Judgments
If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Contract and the remainder of the provision in question shall not be affected.

42. Notice in Writing
Any notice required or permitted to be given by either you or us to the other under this Contract shall be in writing addressed to that other party at its registered office or principal place of business, or such other address as may at the relevant time have been notified pursuant to this clause to the party giving the notice.

43. All References in these Conditions

Further details appearing shall, in the absence of such details appearing in these Conditions, be construed as a reference to such details as are contained in our quotation to you for the Hire Goods, Storage Facilities or Sale Goods (as the case may be) or as are otherwise agreed in writing.

44. The Agreement Between Us and You

This Contract contains the whole agreement between you and us in respect of its subject matter and supersedes any previous written or oral agreement between you and us relating to it. It is governed by and construed in accordance with English law and you and we agree to submit to the exclusive jurisdiction of the courts of England and Wales.

Anthony Wherry trading as A Wherry Plant Hire / A Wherry Container Sales