

Out Back Storage, Inc.
11 Mechanic Street
Amenia, NY 12501
845-373-9539

Self-Storage Occupancy Agreement

NOTICE: THIS AGREEMENT REQUIRES YOU TO CARRY INSURANCE ON THE PERSONAL PROPERTY STORED IN YOUR STORAGE SPACE!

Unit No. _____ Unit Size _____ x _____ Payments Due on Day _____ of Each Month Lease Date _____

Name (Occupant) _____
Home Phone _____ Work Phone _____
Mailing Address _____

NOTICE: Occupant/Tenant is required to lock unit with only one (1) lock and it can not be a CYLINDER LOCK.

Last FOUR digits of Credit Card No. _____ Exp Date: _____

Alternate Contact _____ Alternate Contact's Phone Number _____

_____ (Occupant) is hereby granted the permission by owner to utilize the self-storage unit from Out Back Storage, Inc. located at the above referenced premises described as unit number _____, approximate size: _____ x _____.

The parties agree as follows:

1. **TERMS OF OCCUPANCY.** The terms of this Occupancy shall begin on the day that it is signed by the Owner and the Occupant. Occupant agrees that he is what the law refers to as a "month to month occupant". The terms of this Occupancy automatically renew, unless terminated by either party, on ten (10) days written notice, which notice will state the date of termination.

2. **MONTHLY CHARGES AND LATE CHARGES.** Occupant shall pay to the Owner as a monthly Occupancy charge, without prior notice, demand or billing statement, the sum of _____ per month on the due date of each calendar month.

If Occupancy charges are not paid by day _____ of the month or received by Owner within five (5) days of the due date, Occupant agrees to immediately pay, as additional occupancy charges, a late charge of _____. If occupancy charges are still not received within twenty (20) days of the due date, Occupant agrees to immediately pay, as additional occupancy charges, a second late charge of _____. In the event of a returned or dishonored bank check, occupant agrees to pay an additional charge of _____, for each returned check. In addition, any further cost incurred by Owner by reason of Occupant breach of any provision of the agreement shall be deemed additional occupancy charges and may be withheld from occupant's deposit. Owner reserves the right to be paid by cash only on past due accounts and to accept only payment in full on past due charges and occupancy charges.

Owner reserves the right to charge any credit card on file if the account is 90 past due.

Owner reserves the right not to renew this agreement for any cause. Owner has the right to increase the occupancy charges giving Occupant thirty (30) days written notice.

All occupancy charges shall be made to Owner at the above address, monthly in advance and without demand, as same shall become due, or at such other places as shall be designated in writing from time to time by Owner. Any additional charges shall be deemed additional occupancy charges and shall be payable concurrently with the occupancy charge payment in respect of which said additional charge is levied. In the event of a lockout under paragraph 12, hereof, it is expressly agreed that occupancy charges shall continue until paid or until termination of this agreement by Owner.

3. **INITIAL PAYMENT.** The total amount due at the time of the execution of this agreement is computed as follows:

First Month's Occupancy Charges _____
Damage, Cleaning, Performance Deposit _____
Administrative Set Up Fee _____

4. **HOLDING OVER.** Unless ten (10) days prior to the end of the initial term hereof, or any extension or renewal thereof, either of the parties gives the other party notice of his intention to terminate this agreement at the end of the paid term, this agreement shall be construed as a month to month occupancy at the occupancy charges herein specified and shall be on the same terms and condition herein specified, or as modified pursuant to Paragraph 14 hereof, as so far as applicable. Occupant agrees that in consideration of owner not terminating this agreement upon the end of the original term or any extension or renewal thereof that Occupant will give notice prior to subsequent move-out and agrees that failure to give such notice will subject Occupant to forfeit the deposit made under provisions of paragraph 5 in the full amount of the deposit to be construed as the amount of the liquidated damages.

5. **DEPOSITS.** A property damage, cleaning and performance deposit shall be paid by the Occupant to the Owner in the amount of one month's rent. The deposit, without interest, will be returned within thirty (30) days, by mail, at the termination of this agreement

provided Occupant has complied with all of his obligations hereunder, and subject to deductions as are herein authorized. Occupant agrees to surrender space and premises to Owner at the end of this agreement in a clean and re-rentable condition, normal wear and tear excepted, and all cost and expenses incurred by Owner in restoring the space and premises to the same condition prior to occupancy will be paid by occupant as a deduction from deposit. Any unpaid charges, damages, or occupancy charges due to the Owner shall likewise be deducted from the deposit. Should the total deductions herein exceed the amount of the property damages, cleaning and performance deposit, Occupant agrees to pay to Owner the amount of such excess.

6. **USE OF PREMISES, COMPLIANCE WITH LAW and STORAGE LIMITATIONS.** The space is for the storage of personal property only and may not be used for residential purpose or to house live animals. The storage unit may not be used for any unlawful purpose, nor will Occupant keep in the storage unit any explosive or highly flammable material, hazardous or toxic goods or substances; nor any food nor any other goods which emits odors, spoilage or decay and/or whose storage or use, contravenes federal, state or local laws.

Occupant acknowledges and understands that the storage space is not suitable for the storage of items of sentimental, intrinsic or extraordinary value including, but not limited to, heirlooms, irreplaceable documents or records, art work, irreplaceable or invaluable property, objects of special or emotional value to the Occupant or other objects for which no immediate resale market exist.

The Occupant further agrees and understands that it may only store goods that the Occupant owns. The Owner will rely upon the representation that the Occupant is storing only goods for which it is the rightful and absolute Owner.

The Occupant agrees to hold the Owner, and/or other occupants and third parties harmless and indemnify, save and defend such persons from any loss resulting in violation of this provision and for any claim, action, proceeding, liability, loss damage and expense, including attorney's fees arising out of any act or omission of Occupant or Occupant's agent. The Occupant hereby specifically grants unto the Owner permission to enter the storage unit at any time for the purpose of removing or disposing of any property kept in the storage unit in violation of this provision and for inspecting the unit to ensure compliance with this agreement. Such entry by Owner shall not constitute establishment of care, custody and control and shall not relieve Occupant of any of its obligations to Owner under the terms of this Agreement.

7. **TIME TO BRING TO SUIT.** Any claims, suits or defenses to suits by Occupant that arise out of this rental agreement, the negotiations that preceded this occupancy, or for loss of or damage to stored property shall be barred unless Occupant commences an action within two (2) months after the date of the acts, omissions, or inaction that gave rise to such claim, suit or defense.

8. **OCCUPANT'S OBLIGATIONS.** The occupant acknowledges and understands that no bailment is created by this agreement. The owner is not engaged in the business of storing goods for hire, nor is it in the warehousing business, but it is simply providing a storage unit which the Occupant can store items of personal property owned by the Occupant. Except as provided in Section 182 of the Lien Law of the State of New York, **THE STORAGE UNIT IS UNDER EXCLUSIVE CONTROL OF THE OCCUPANT. THE OWNER DOES NOT TAKE CARE, CUSTODY AND CONTROL, POSSESSION OR DOMINION OF THE CONTENTS OF THE SELF-STORAGE UNIT OR THE CONTENTS THEREOF.**

Further, the Owner does not have any obligation to carry insurance on occupant's property stored in the storage unit. In the event occupant wishes to have his/her property covered by insurance, the Occupant must obtain his/her own coverage. The Owner will not be responsible or otherwise liable, directly or indirectly, for loss or damage to the property of the Occupant due to any cause, including fire, explosion, theft, vandalism, wind or water damage, and defect, whether known or subsequently created or discovered, in the storage unit, or acts or omissions of any third party, regardless of whether such loss or damage may be caused or contributed by the negligence of the Owner, its agents or employees.

The Occupant further represents to the Owner that the total value of all property stored or to be stored in the future in the storage unit is less than \$5,000 unless Occupant advises Owner in advance and in writing of a greater value. If Occupant's property exceeds a \$5,000.00 value, Occupant must provide Owner with a Certificate of Insurance, for the amount of property value claimed. Occupant acknowledges and agrees that this limitation is important to Owner and that Occupant's failure to comply with this limitation is a substantial breach of the Occupancy obligation, pursuant to this agreement. Nothing in the foregoing sentence shall be deemed to create any liability on the part of the Owner to Occupant for any loss or damage to Occupant's property, regardless of cause.

This limitation of damages upon enforcement of lien shall only be applicable after the Owner has enforced its Lien pursuant to subdivision 7 of Section 182 of the Lien Law of the State of New York.

9. **NON-LIABILITY OF OWNER: INDEMNITY.** The Owner shall not be liable to the Occupant or the Occupant's invitees, family members, employees, agents, or servants for any personal injury or damage to the personal property caused by any act or negligence of any other person in or about Owner's property other than the Owner and the Owner's agents, servants and employees. The Occupant hereby agrees to indemnify and save the Owner harmless from and against any and all claims for damages to the property and personal injury including the attorney's fees and costs arising from the Occupant's use of the space provided, or of the Owner's property, or from any activity, work or other things done, permitted or suffered to be done by the Occupant in or about the space, or the Owner's property.

Should any of the Owner's employees perform any service for the Occupant at Occupant's request, such employees shall be deemed to be the agents of the Occupant regardless of whether payment for such services is made or not, then the Occupant agrees to, indemnify and save the Owner harmless from all liability in connection with services performed by the Owner's employees, together with the attorney's fees and costs of suit.

10. **ALTERATIONS, SIGNS AND WASTE.** Occupants shall not make nor suffer to be made any alterations or waste of the space or premises nor post any signs without express written consent of the Owner.

11. **OWNERS RIGHT TO ENTER, INSPECT AND REPAIR THE PREMISES.** Occupant agrees that the Owner and the Owner's representatives shall have the right without notice to enter into and upon the space for any part thereof, for the purposes of examining the same for agreement violations or conditions thereof or making repairs or alterations thereto. Owner reserves the right to remove contents to another storage space.

12. **DEFAULT AND REMEDY.** NEW YORK STATE LIEN LAW 182 PROVIDES THAT AN OWNER HAS A LIEN ON ALL PROPERTY OF OCCUPANT HELD AT THE FACILITY FOR OCCUPANCY CHARGES OR ANY OTHER CHARGES PAST DUE

OR DUE IN THE FUTURE AND FOR EXPENSES NECESSARY AND REASONABLE INCURRED FOR THE PROTECTION OF ANY MONIES DUE TO THE OWNER. THIS LIEN IS SUPERIOR TO ANY OTHER LIEN OR SECURITY INTEREST AND GOES INTO EFFECT AS OF THE DATE THE PROPERTY IS BROUGHT TO THE FACILITY.

The Owner has this lien in full force and effect should Occupant have any of the following occur:

- 1) Failure to pay occupancy charges;
- 2) Failure to pay other charges;
- 3) Abandonment of the storage unit;
- 4) Damage to the Owner's premises or to the storage unit as a result of the Occupant's actions or failure to act; and
- 5) Failure to comply with any term of this agreement or any of the rules and regulations of the Owner.

It is specifically understood that the Owner may have certain rules and regulations necessary for the operation of the self-storage facility and the Occupant and the Authorized Person(s) for Access specifically agree to familiarize themselves with said rules and regulations from time to time and to abide by all terms and conditions as said rules and regulations are amended.

The Occupant expressly understands and agrees, as of the date of signing this agreement and throughout the life of this agreement, the Owner has a lien on all of the property which the Occupant places and will place in the storage space, which lien is the superior to any other lien.

If the Occupant should be in default of any provision hereof, or fail to pay any charges when due, the Owner has, in addition to all rights and remedies as provided by law, at his option, the following rights to do any or more of the following:

The Owner after giving ten (10) days written notice to the Occupant which notice shall be deemed to be given by the Owner by mailing same, certified or registered, return receipt requested, to the last known address of the Occupant, may at his option do any of the following:

a) Make any demand or give any notice as may be required by law and should Occupant fail to comply with such demand or notice within the time required by law if any, Owner may declare this agreement terminated and sell Occupant's property at Occupant's expense in accordance with section 182 of the New York State Lien Law;

b) Refuse to provide access to the storage unit to Occupant, its agent or authorized person;

c) Overlock and/or remove Occupant's lock on the door of the storage space, for which Occupant agrees to immediately pay, as additional occupancy charges, an overlock/lock removal charge of _____. However, there is no requirement that the Owner give any notice in order to avail itself of this self-help measure which the Occupant agrees is valid and reasonable;

d) Inventory such property and charge the Occupant for the reasonable cost of such inventory;

e) Pursuant to the provisions of Section 182 of the Lien Law of the state of New York, sell the property contained in the rental space to any person by public or private sale and for any amount should a sale take place;

f) Apply the proceeds of such sale only to the Occupant's indebtedness to the Owner and shall hold any proceeds over and above the amount owed by the Occupant to the Owner in an account for the benefit of the Occupant. Upon written demand, the excess, if any, shall be returned to the Occupant without interest. Owner shall hold such proceeds for a period not to exceed two years, and it is specifically understood that the proceeds of such sale shall first pay the costs of sale and subsequent to the costs of sale, the payment of any occupancy charges, or any other charges.

The Occupant further agrees to pay all costs and expenses, including reasonable attorney's fees, reasonable service charges and processing charges of the Owner in enforcing any term of this agreement.

Any notice required to be given under this agreement must be in writing to the other party at the appropriate address. Any such notice will be deemed to have been given at the time it is duly deposited, postage prepaid, in the United States mail, unless otherwise required by law. Any address change may be changed only by written notice, and must be acknowledged by Owner.

Any damage to the Owner's premises or the storage unit will constitute a default.

13. **ABANDONMENT OF OCCUPANT'S PROPERTY.** Any property which shall remain on the premises after the expiration or termination of this agreement shall be deemed to have been abandoned and either may be retained by the Owner as his own property, disposed of by the Owner, or sold as provided for in Paragraph 12 hereof. If such property of any party hereof shall be sold, Owner may receive and retain the proceeds of such sale and apply the same at his option, against the expenses of re-entry and sale, the cost of moving and storage, any arrears of occupancy charges and any damages to which Owner may be entitled hereunder or pursuant to law.

14. **BREACH OF THE COVENANTS OR CONDITIONS.** A breach of any of the covenants or conditions by the Occupant shall, at the option of the Owner, terminate this agreement and Owner shall have all rights and remedies available under this agreement or otherwise by law.

15. **WAIVER.** No waiver by Owner, its agents, representatives or employees, or any breach or default in the performance of any covenant, condition or term contained herein shall constitute a waiver of any subsequent breach or default in the performance of the same or any other covenant, condition or term hereof.

16. **SUBLETTING OR ASSIGNMENT.** No subletting of the premises or any portion thereof or assignment of this agreement may be made by Occupant without having written permission of the Owner in advance.

17. **SEVERABILITY CLAUSE.** If any part of this agreement for any reason is declared invalid, such decisions shall not affect the validity of any remaining portion which remaining portion shall remain in force and effect as if this agreement had been executed with the invalid portion thereof eliminated. It is hereby declared the intention of the parties that they would have executed the remaining portion of this agreement without including any such part, parts or portions which may, for any reason be hereafter declared invalid.

18. **LAW TO APPLY.** This agreement shall be construed under and in accordance with the laws of the State of New York.

19. **EXCLUSION OF ALL WARRANTIES.** The agents and employees of Owner are not authorized to make warranties about the space and facilities referred to in this agreement. Owner's agents and employees oral statements do not constitute warranties, shall not be relied upon by the Occupant, and are not a part of this agreement. The parties hereto agree that the implied warranties of merchantability and fitness for a particular purpose and all other warranties, express or implied, are excluded from this transaction and shall not apply to the occupied space and facilities referred to herein. It is further understood and agreed that Occupant has been given an opportunity to

inspect, and has inspected the space to be occupied by the Occupant hereunder, and the Occupant accepts storage space and facility as is and with all faults.

20. CHANGE OF ADDRESS. It shall be the duty of the Occupant to furnish the Owner, in writing, any change of address or phone numbers by certified mail, return receipt requested, postage prepaid within twenty (20) days of such change.

21. INSURANCE. Occupant, at Occupant's expense, shall maintain a policy of fire, extended coverage endorsement, burglary, vandalism and malicious mischief insurance for the actual cash value of stored property. Insurance on Occupant's property is a material condition of this agreement and is for the benefit of both Occupant and Owner. Failure to carry the required insurance is a breach of this agreement and Occupant assumes all risk of loss to stored property that would be covered by such insurance. Occupant expressly agrees that the insurance company providing such insurance shall not be subrogated to any claim of Occupant against Owner, Owner's agents or employees for loss of or damage to stored property.

22. OWNER REMEDIES. Occupant agrees that Owner may pursue all avenues of collection, including use of collection agencies, and authorizes Owner to prepare and submit credit card charge using the credit card listed in this contract or other credit cards provided by Occupant to Owner to recover all charges and other unpaid amounts due to (a) late payment of occupancy charges, (b) damages to the storage unit (if in excess of security deposit), and (c) other unpaid charges and reasonable legal fees resulting from the failure to pay occupancy charges. In any action or proceeding brought by one party as and against the other relative to this agreement, the Occupant specifically waives his/her right to a jury trial and agrees not to interpose any counterclaim on any action commenced by the Owner.

THIS WRITING CONSTITUTES THE ENTIRE AGREEMENT OF THE PARTIES AND THERE ARE NO REPRESENTATIONS THAT ARE NOT PART AND PARCEL OF SAID OCCUPANCY AGREEMENT. ALL OF THE PROVISIONS HEREOF SHALL APPLY TO AND BE A BINDING UPON THE HEIRS, EXECUTORS, ADMINISTRATORS, REPRESENTATIVES AND SUCCESSORS OF THE PARTIES HERETO. BY HIS/HER SIGNATURE BELOW, OCCUPANT ACKNOWLEDGES RECEIPT OF A COPY OF THIS OCCUPANCY AGREEMENT.

Occupant hereby acknowledges signing this occupancy agreement that he has read, understands and accepts all the covenants, terms and conditions expressed in this occupancy agreement, as shown on all sides. Executed on the date and year as set forth below.

Occupant Name: _____

By (Management Agent): Jane C. Callahan

(Occupant Signature)

(Management Signature)

Owner: Joseph P. Ducillo, Vice-President
Out Back Storage, Inc.
11 Mechanic Street
Amenia, NY 12501