

Canadian Standard Contract Terms and Conditions for Merchandise Storers or Warehouses

(Approved and promulgated by Canadian Association of Warehousing and Distribution Services, October 1988; revised and promulgated by the International Warehouse Logistics Association, January 1999; revised and promulgated by the International Warehouse Logistics Association, December 2008).

DEFINITIONS – Sec. 1

In these Terms and Conditions:

“**Article**” means an item of tangible personal property other than a fixture.

“**Depositor**” means the owner of the Goods or the party for whose account the Goods are stored;

“**Goods**” means the goods or packages containing them that are described on the face of and are covered by this Receipt;

“**Receipt**” means this non-negotiable warehouse receipt to which these Terms and Conditions are attached and which acknowledges in writing Storer’s or Warehouse’s receipt for storage of Depositor’s Goods;

“**Storage**” includes cross-dock, trailer-drop, transloading and other such storage services.

“**Storer**” or “**Warehouse**” mean the issuer of this Receipt, its employees, servants, successors and assigns; and

“**Warehouse Facility**” means the warehouse premises of the Storer or Warehouse.

CONTRACT – Sec. 2

Subject always to legislation in force governing warehouse receipts in the province where the Goods are stored, this Receipt including the Terms and Conditions hereinafter set out and rates and charges that may be attached hereto, when delivered or mailed to the Depositor of the Goods at its address last known to the Storer or Warehouse, shall constitute the contract between the Depositor and the Storer or Warehouse; provided that the Depositor may within 20 days after such delivery or mailing, notify the Storer or Warehouse in writing that the Depositor does not accept the contract and forthwith thereafter shall pay the Storer’s or Warehouse’s lien for charges and remove the Goods. If such notice is not given then this Receipt constitutes the contract. This contract may be cancelled by either party upon 30 days written notice and is cancelled if no storage or other services are performed under this contract for a period of 180 days.

TENDER FOR STORAGE – Sec. 3

All Goods tendered for storage shall be delivered at the Warehouse Facility properly marked and packaged for handling. The Depositor shall furnish at or prior to such delivery, a manifest showing marks, brands or sizes to be kept and accounted for separately, and the class of storage and other services desired.

STORER’S LIEN – Sec. 4

All advances and charges are due and payable prior to delivery or transfer of the Goods. The Storer or Warehouse shall have a lien upon, right of retention and security interest in all Articles of Depositor, including the Goods, at any time heretofore and hereafter deposited by Depositor in any Warehouse Facility owned or operated by the Storer or Warehouse. Such lien, right of retention and security interest shall be for all charges, advances and expenses in relation to such Articles of Depositor, whether or not heretofore released from the Warehouse Facility. In the event of nonpayment of any such amounts, the Storer or Warehouse has the right, after reasonable notice, to sell or otherwise dispose of the Depositor’s Articles in any manner that it may reasonably think fit to satisfy its lien, subject to legislation in force governing the disposition of such Articles in the province where such Articles are stored. Where the Storer or Warehouse decides, in its sole and exclusive discretion, to deliver or transfer the Goods prior to receipt of payment of all charges, advances and expenses in relation to the Goods, the Depositor shall deliver to the Storer or Warehouse, immediately upon its request, a signed acknowledgment of indebtedness on an invoice or other statement of account.

BASIS OF CHARGES – Sec. 5

Any charge made with respect to the Goods shall conform to the Storer’s or Warehouse’s rates and charges that may be attached hereto or quotation and/or tariff in effect at the time the service is performed.

ACCESS AND INSPECTION – Sec. 6

The Depositor may, subject to the Storer’s or Warehouse’s security and insurance regulations and other reasonable limitations, have access to the Goods at any reasonable time, provided at least 48 hours written notice is given in advance to the Storer or Warehouse and provided the Depositor or its authorized representative is accompanied by an employee of the Storer or Warehouse, whose time shall be an additional charge to the Depositor.

DANGEROUS GOODS – Sec. 7

It is the Depositor's responsibility to provide the Storer or Warehouse in advance with detailed, written information and instructions on any of its Articles that may be considered hazardous, whether or not they are regulated under the *Transportation of Dangerous Goods Act* or other applicable legislation. If the Depositor fails to do so, the Storer or Warehouse shall have the right to refuse to accept such Articles when tendered for storage or other services and shall not be liable for any loss, misconsignment or damage of any nature to such Articles. The Depositor warrants that the Goods, the packaging and marking thereof comply in all respects with the provisions of any federal or provincial legislation or regulations governing the handling or storage of dangerous goods. The Depositor assumes all liability for costs incurred and/or damages resulting from Depositor's failure to do so. The Depositor shall indemnify, defend and hold the Storer or Warehouse (including its officers, directors, parent and affiliated companies, employees, servants and agents) harmless from and against any loss, liability, damage, penalty, demand, expense, claim of whatever type or nature by or on behalf of any person, including but not limited to damage or destruction of property or injury (including death) to any person, arising out of the Goods being stored at the Warehouse Facility or tendered for transportation or handled by third parties retained by the Storer or Warehouse.

REMOVAL OF GOODS – Sec. 8

No Article that is or may become of a dangerous, explosive, inflammable, radioactive, hazardous, biohazardous, cytotoxic or environmentally damaging nature that, in the opinion of the Storer or Warehouse, may create a condition hazardous to any personnel or Articles in the Warehouse Facility or to the Warehouse Facility itself shall be delivered to the Warehouse Facility, except where the Depositor has obtained the prior written approval of the Storer or Warehouse. Any such Article may, upon being discovered, be destroyed, dumped, sold or otherwise disposed of as the Storer or Warehouse reasonably sees fit, the whole at the risk and expense of the Depositor and without liability on the part of the Storer or Warehouse. The Storer or Warehouse shall have the right to require the removal from its Warehouse Facility of any other Articles of any kind or description, at any time, without stated reasons, upon written notice of not less than 30 days from the end of the current storage month.

LIABILITY OF STORER OR WAREHOUSE – Sec. 9

- (a) The responsibility of the Storer or Warehouse is the reasonable care and diligence required by the laws of the province where the Goods are stored; provided that all Goods are stored at the Depositor's risk of loss, damage or delay in delivery unless the Depositor establishes such loss, damage or delay occurred because of the Storer's or Warehouse's failure to exercise the care required by the laws of the province where the Goods are stored.
- (b) The quality, condition, contents and value of the Goods are not known to the Storer or Warehouse except as declared by the Depositor and described on the face of the Receipt.
- (c) Goods covered by this Receipt are not insured by the Storer or Warehouse.
- (d) Without limiting the generality of the foregoing, it is specifically declared that:
 - i) All Goods are stored at the owner's risk of loss, damage or delay in the delivery caused by or through inaccuracies, obliteration or absence of marks, numbers, address or description, act of God, irresistible force, enemies of the Queen, civil or military authorities, insurrection, riot, strikes, terrorist acts, picketing or any other labour trouble, water, steam, sprinkler leakage, floods, rain, wind, storm, fire, frost, vermin, heating or corruption, deterioration, drainage, dampness, rust, decay, collapse of the building, inevitable accident, depreciation or perishing by a lapse of time, changes in temperature, interruption or loss of power, contact with or odors from other Articles, inherent defects, lack of any special care or precaution, injury to Articles insufficiently protected or arising from the nature of the Goods, loss in weight, insufficient cooperage, boxing, crating or packing, ordinary wear and tear in handling, leakage, concealed damage or any cause beyond the control of the Storer or Warehouse or failure to detect any of the foregoing. All storage and other applicable charges must be paid on Goods stored for an additional time, or lost or damaged by any of the above causes.
 - ii) The legal liability of the Storer or Warehouse shall be strictly limited to the lesser of the monetary amount of the damage incurred or 100 times the monthly storage rate on any one package or stored unit with the contents (or, in cases where the Storer's or Warehouse's charges are calculated for other than actual storage, maximum \$50.00 per unit) unless the Depositor specifically requests a higher limit in writing and declares an excess value, in which case the Storer or Warehouse may, at its option, accept liability and assess an additional charge to the monthly storage or other applicable rate.
- (e) Where loss, damage or destruction occurs to the Goods, for which the Storer or Warehouse is not liable, the Depositor shall be responsible for the cost of removing and disposing of such Goods and the cost of any environmental cleanup and site remediation resulting from the loss, damage or destruction to the Goods.
- (f) The Storer or Warehouse shall not, in any event, be liable for any claim of any type whatsoever with respect to the Goods unless such claim is presented in writing within a reasonable time, not exceeding 30 days after the Depositor learns of, or, in the exercise of reasonable care, should have learned of the loss, damage or destruction of the Goods.

GENERAL – Sec. 10

- (a) All incoming shipments must be consigned to the Depositor, c/o the Storer or Warehouse, freight prepaid. The Storer or Warehouse reserves the right to refuse acceptance of any Articles improperly consigned or shipped freight collect and shall not be liable or responsible for any loss, injury or damage of any nature to or related to such Articles.
- (b) If a checker is not furnished by the Depositor or transportation company delivering the Goods to the Warehouse Facility, the Storer's or Warehouse's load or unload count shall be conclusively deemed to be correct.
- (c) The Storer or Warehouse shall have no responsibility for errors resulting from the corruption of electronically transmitted data, or from verbal or telephoned shipping instructions, unless written confirmation of such instructions is received not less than twenty four hours prior to the shipment of the Goods.

Client Initials _____

- (d) When errors in shipment occur, any liability of the Storer or Warehouse shall be strictly limited to the transportation costs involved to rectify any such error, and shall not, under any circumstances, include liability for loss or damages due to the acceptance or use of the Goods.
- (e) The Storer or Warehouse shall not be responsible for delays in loading or unloading railway cars, trailers or other containers, nor for demurrage charges or other time penalties arising from any delay at the Warehouse Facility, which cannot reasonably be avoided by the Storer or Warehouse in the normal course of its business.
- (f) A charge, in addition to regular rates, will be made for merchandise in bond pursuant to the Customs Bonded and Sufferance Warehouse Regulations of the Government of Canada.
- (g)** Storer or Warehouse shall not be liable for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods unless Depositor establishes such loss occurred because of Storer's or Warehouse's failure to exercise the care required of Storer or Warehouse under Section 9 above. Notwithstanding the foregoing, Depositor acknowledges and agrees to accept a damage and inventory shrinkage allowance of 2/10ths of 1% of cases shipped per year. The annual shrinkage quantity shall be calculated by netting overages and shortages to arrive at a net quantity of cases. Value shall be calculated as per 9d)ii) above.
- (h) Depositor represents and warrants that it is lawfully possessed of the Goods and has the right and authority to store them with the Storer or Warehouse. Depositor agrees to indemnify and hold harmless the Storer or Warehouse from all loss, cost and expense (including reasonable lawyers' fees) which Storer or Warehouse pays or incurs as a result of any dispute or litigation, whether instituted by Storer or Warehouse or others, respecting Depositor's right, title or interest in the Goods. Such amounts shall be charges in relation to the Goods and subject to Storer's or Warehouse's lien.
- (i) Storer or Warehouse shall not be liable for any loss of profit or special, indirect, or consequential damages of any kind.
- (j)** If any provision of this Receipt, or any application thereof, should be construed or held to be void, invalid or unenforceable, by order, decree or judgment of a court of competent jurisdiction the remaining provisions of this Receipt shall not be affected thereby but shall remain in full force and effect. Storer's or Warehouse's failure to require strict compliance with any provision of the Receipt shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provisions of this Receipt. The provisions of this Receipt shall be binding upon the Depositor's heirs, executors, successors and assigns and cannot be modified except in writing signed by Storer or Warehouse.
- (k) The Parties agree that these Terms and Conditions shall be governed by the law of the Province within Canada in which the Warehouse Facility is located. By accepting the services provided under these Terms and Conditions, the Depositor irrevocably attorns to the exclusive jurisdiction of the Courts of that Province.
- (l) Documents, including this Receipt, may be issued either in physical or electronic form at the option of the Parties.
- (m) Unless specified otherwise, all statements of or references to dollar amounts in these Terms and Conditions are to lawful money of Canada.