

STANDARD CONTRACT TERMS AND CONDITIONS FOR MERCHANDISE WAREHOUSEMEN

ACCEPTANCE - Section 1

(a) This contract and rate quotation including accessorial charges endorsed on or attached hereto must be accepted within thirty (30) days from the proposal date by signature of depositor on the reverse side of this contract. In the absence of written acceptance, the act of tendering goods described herein for storage by warehouseman within thirty (30) days from the proposal date shall constitute such acceptance by depositor. The presence of a counter proposal shall not change the terms of this agreement unless specifically agreed to in writing by the warehouseman.

(b) In the event that goods tendered for storage do not conform to the description contained herein, or conforming goods are tendered for storage after thirty (30) days from the proposal date without prior written acceptance by depositor as provided in paragraph (a) of this section, warehouseman may refuse to accept such

goods for storage. If warehouseman accepts such goods for storage, depositor agrees to rates and charges as may be assigned and invoiced by warehouseman and to all terms of this contract.

(c) This contract is deemed canceled if no storage or other services are performed during any period of thirty (30) consecutive days.

(d) Any goods received prior to the date of this contract are subject to the terms and conditions of same.

SHIPPING - Section 2

Depositor shall not name the warehouseman as consignee on any Bill of Lading or other shipping documents. If in violation of this agreement, goods are so shipped to warehouseman as named consignee, depositor agrees to notify carrier in writing prior to such shipment with copy of such notice to warehouseman, that warehouseman named as consignee is a warehouseman and had no beneficial title or interest in such property, and depositor further agrees to indemnify and hold harmless warehouseman from any and all claims for unpaid transportation charges, including undercharges, demurrage, detention or charges of any nature, in connection with goods so shipped. Depositor further agrees that, if it fails to notify carrier as required by the preceding sentence, warehouseman shall have the right to refuse delivery of such goods, in which event warehouseman shall not be responsible for any loss, injury or damage of any nature to or related to such goods. Depositor agrees that all promises contained in this section will be binding on depositor's heirs, successors and assigns.

TENDER FOR STORAGE - Section 3

Storage shall be defined as the physical resting of goods tendered. All goods for storage shall be delivered at the warehouse properly marked and securely packed 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 desired. Unless otherwise instructed, goods will be stored in bulk, in lots or in a commingled manner, at the discretion of the warehouseman.

Should goods in storage be transferred on the books of warehouseman from one party to another, a new storage

date is established on the date of transfer. On request of the depositor, and then only by special arrangements and subject to extra labor charge, original packages may be broken for partial delivery. Storage charges become

applicable upon the date that warehouseman accepts care, custody and control of the goods, regardless of unloading date or date of issuance of warehouse receipt.

STORAGE PERIOD AND CHARGES - Section 4

(a) All goods are stored on a month-to-month basis. All charges for storage are per package or other agreed unit per month.

(b) The depositor shall pay one month's storage for the month in which the goods are received if the goods are (received on the first through the fifteenth, inclusive, of a calendar month, and on all goods received between the sixteenth and the last day of the month, storer will pay one-half month's storage for the month in which they are received. For all goods on hand at the end of the month, storer will pay a full month's storage for the following month. All storage charges are due and payable on the first day of storage for the initial month and, thereafter, on the first day of each succeeding calendar month.

(c) Invoices are due and payable upon receipt of invoice. Claims or other countercharges may not be deducted or otherwise offset. Should there be a deduction, warehouseman may assess an administrative fee to cover collection costs equal to 25% of the amount due to warehouseman. All handling and storage payments not received by warehouseman in 10 days will be subject to a service charge of 1 1/2% per month until paid. Additionally, warehouseman may hold all goods until payment is made.

TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS - Section 5

(a) Instructions to transfer specified goods on the books of the warehouseman are not effective until delivered to and accepted by warehouseman, and all charges, up to the time transfer is made, are paid by the depositor of record. If a transfer involves movement of goods, such will be subject to a charge. When goods in storage are

transferred from one party to another, a new storage date is established on the date of transfer and a new warehouse receipt will be issued.

(b) The warehouseman may, at his expense, fourteen (14) days after notice is sent by certified or registered mail to the depositor of record, or to the last known holder of the negotiable warehouse receipt, move any goods in storage from the warehouse in which they may be stored to any other of his warehouses. The warehouseman may, without notice, move goods within the warehouse in which they are stored.

(c) The warehouseman may, upon written notice to the depositor of record, and/or any other person known by the warehouseman to claim an interest in the goods, require the removal of the goods by the end of the next succeeding storage month. If goods are not removed before the end of the next succeeding storage month, the warehouseman may sell them in accordance with applicable law.

(d) If warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of charges secured by the warehouseman's lien before the end of the next succeeding storage month, the warehouseman may specify in the notification any reasonable shorter time for removal of the goods, and, in case the goods are not removed, may sell them at a public sale held one week after a single advertisement or posting as provided by law.

(e) If as a result of a quality or condition of the goods of which the warehouseman had no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to persons, the warehouseman may sell the goods at public or private sale without advertisement or reasonable notification to all persons known to claim an interest in the goods. If the warehouseman, after a reasonable effort, is unable to sell the goods, he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale or return of the goods, the warehouseman may remove goods from the warehouse and shall incur no liability by reason of such removal.

(f) When goods are ordered out, the warehouseman shall be afforded a reasonable time to execute shipping instructions; should shipment be prevented because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots or civil commotions, or because of any other excuse

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provided by law from executing shipment instructions, the warehouseman shall not be liable for such failure, and goods remaining in storage will continue to be subject to regular storage charges.

HANDLING - Section 6

- (a) Unless owner declares in writing, on arrival of car, rail truck or other vehicles that all dunnage or fastenings salvaged therefrom be returned therein, or stored for owner, warehouseman may claim ownership of dunnage or fastenings or arrange for disposal under 6(b). In the event that it is stored, a charge will be made for storage.
- (b) Labor for unloading goods from other than regular box cars at warehouse door, additional expenses incurred by the warehouseman in unloading damaged goods, and unloading or disposing of dunnage, and additional expenses incurred unloading cars not at warehouse door will be charged to the depositor.
- (c) Labor and materials used in loading rail cars, trucks or other vehicles are chargeable to the depositor.
- (d) When goods are ordered out in quantities less than in which received, the warehouseman may make an additional charge for each order or each item of an order.
- (e) The warehouseman shall not be liable for demurrage, delays in unloading inbound rail cars, trucks or other vehicles or delays in obtaining and loading rail cars, trucks or other vehicles for outbound shipment. The depositor will be liable for demurrage or detention charges.

DELIVERY REQUIREMENT - Section 7

- (a) No goods shall be accepted, or transferred, or shipped, until the receipt by the warehouseman of complete, legible, comprehensive instructions, duly signed by the depositor. Goods may be delivered upon instructions by telephone in accordance with a prior written agreement where no negotiable receipt is outstanding, provided the warehouseman, under those circumstances, shall not be responsible for loss or error, occasioned thereby. Warehouseman's liability for goods lost due to delivery or shipping errors shall be limited in accordance with the provisions of Section 10(g) herein.
- (b) No goods, enumerated on a negotiable receipt, shall be delivered, or transferred on the books of the warehouseman, unless the receipt, duly endorsed, is surrendered for either cancellation, or for endorsement of partial delivery. If a negotiable receipt is lost or destroyed, delivery of goods may be made only upon order of a court of competent jurisdiction, plus the posting of security approved by law.
- (c) The warehouseman will not be responsible for the payment or correctness of freight rates or extensions.

EXTRA SERVICES (SPECIAL SERVICES) - Section 8

- (a) Warehouse labor required for any service other than securing, stowing, storing and shipping will be charged to the depositor.
- (b) Special services requested by the depositor including but not limited to compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical check of goods; receiving goods not accompanied by a manifest, and handling transit billing will be subject to a charge.
- (c) Dunnage, bracing, packing materials or other special supplies may be provided for the depositor at a charge in addition to the warehouseman's cost.
- (d) By prior arrangement, goods may be received or delivered during other than usual business hours, subject to a charge.
- (e) Damaged goods, handling and storage charges will be assessed upon receipt. The warehouseman may refuse to accept damaged goods. If accepted, however, the warehousemen reserves the right to assess storage charges of four times the stated rate.
- (f) An extra charge is made for special handling of dunnage and damage-free cars.
- (g) Communications expense, Telephone, Facsimile Transmission, Postage and Messenger Service will be charged to depositor at net cost for line and machine rental, plus any other expenses incurred in relation thereto.

MINIMUM CHARGES - Section 9

- (a) A minimum handling and storage charge will be made for each receipt of inbound goods.
- (b) A minimum monthly charge to one account for storage and/or handling will be made for each receipt of inbound goods. This charge will apply also to each account when one depositor has several accounts, each requiring separate records and billing.

LIABILITY AND LIMITATION OF DAMAGES - Section 10

- (a) The warehouseman shall not be liable for any loss or injury to goods stored however caused unless such loss or injury resulted from failure of the warehouseman to exercise such care in regard to them as a reasonably careful person would exercise under like circumstances, and warehouseman is not liable for damages which could not have been avoided by the exercise of such care. Warehouseman assumes no responsibility for goods resting in rail cars or trucks parked at the entrance to the warehouse.
- (b) Goods are not insured by warehouseman against loss or injury however caused. Depositor hereby waives all rights of subrogation against warehouseman.
- (c) All goods secured, stored and shipped at depositor's risk of loss, damage or delay when caused by acts of God, civil or military authority, enemies of the government, insurrections, riots, strikes, civil commissions, seizure under legal process, labor disputes, intentional or malicious acts of third persons or by any cause beyond control of the warehouseman. The depositor specifically agrees that warehouseman shall not be liable for any loss or damages caused by or due to any of the occurrences mentioned in this paragraph.
- (d) The warehouseman shall not be responsible for shrinkage or loss in weight, nor for loss or damage to goods resulting from improper or insufficient packing, cooperage, boxing, crating, wear and tear or inherent qualities of the goods. The warehouseman shall not be held responsible for loss of goods by leakage which was not caused by warehouse or for concealed damage. All storage and handling charges must be paid on goods lost or damaged due to any causes set forth in paragraphs (c) and (d) above or any other causes set forth in this agreement.
- (e) In further consideration of the rates herein, and in keeping with the definitions of warehouseman's legal liability contained herein and in Section 1307.09 of the Ohio Revised Code, depositor agrees to a shrinkage allowance of one and one-half percent of total throughput since the time of the last preceding certified physical inventory, for which shrinkage, whether caused by loss or damage to goods or mysterious disappearance, warehouseman will not be liable.
- (f) Where physical inventories disclose differences in stock, the parties agree to average the values of all overages and shortages and correct the book figures. If after such averaging there is a net credit for owner, the account shall be closed, and if there is a net debit due the owner, the warehouseman shall be responsible if it is shown that the loss is due to a failure to exercise due care with respect to the missing goods.
- (g) In the case of goods lost or damaged due to causes for which the warehouseman is responsible, as adjudged by a court of competent jurisdiction, the measure of damage stipulated herein shall be applied. That measure shall be the manufacturer's cost of the lost, damaged and/or destroyed goods; in no instance shall the amount of the damage awarded exceed fifty (50) times the base storage rate on a package, cube, or per cwt. basis unless excess value is declared by the depositor prior to the time the goods are tendered for storage. In the event storage is on a square foot basis, damages are limited to \$0.45 per one hundred pounds of lost, damaged or destroyed goods. Rates quoted are on the basis of

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this maximum monetary liability; where excess valuation is declared, there shall be a charge of one percent per month on the total valuation in addition to the base storage rate.

(h) In case of goods lost or misplaced, the warehouseman shall be allowed fourteen (14) days in which to locate goods after a receipt of a written order.

(i) Perishables or other merchandise which are susceptible to damage through temperature changes, atmospheric conditions, or other causes incident to general storage, may be accepted in general storage, after depositor's written request and acceptance in writing by warehouseman. Notwithstanding the aforementioned, the warehouseman shall not be held responsible for such damages as might result from general storage conditions.

(j) The limitation of liability referred to in Section 10(g) shall be depositor's exclusive remedy against warehouseman for any claim or cause of action whatsoever relating to loss, damage and /or destruction of goods and shall apply to all claims including inventory shortage and mysterious disappearance claims unless depositor proves by affirmative evidence that warehouseman converted the goods to its own use. Depositor waives any rights to rely upon any presumption of conversion imposed by law. In no event shall depositor be entitled to incidental special punitive, or consequential damages.

NOTICE OF CLAIMS - Section 11

(a) Claims by the depositor and all other persons must be presented in writing to the warehouseman within a reasonable time, and in no event longer than either sixty (60) days after delivery of the goods by the warehouseman or sixty (60) days after the depositor of record or the last known holder of a negotiable warehouse receipt is notified by the warehouseman that loss, damage and/or destruction to part or all of the goods has occurred, whichever time is shorter.

(b) No action may be maintained by the depositor or others against the warehouseman for loss or injury to the goods stored unless timely written claim has been given as provided in paragraph (a) of this section and unless such action is commenced either within nine (9) months after date of delivery by warehouseman or within nine (9) months after depositor of record or the last known holder of a negotiable warehouse receipt is notified that loss, damage and/or destruction to part of all of the goods has occurred, whichever time is shorter.

(c) When goods have not been delivered, notice may be given of known loss, damage and/or destruction to the goods by any commercially reasonable means of communications to the depositor of record or to the last known holder of a negotiable warehouse receipt. If notice is given by warehouseman time limitation for presentation of claim in writing and maintaining of action after notice begins on the date of mailing of such notice by warehouseman.

LIENS - Section 12

(a) Warehouseman shall have a lien against the goods covered by this receipt or on the proceeds thereof for all charges for storage, transportation (including demurrage and terminal charges), insurance, labor, charges present or future with respect to such goods, advances or loans by warehouseman in relation to the goods and for expenses necessary for preservation of such goods or reasonably incurred on their sale pursuant to law. Warehouseman further claims a lien on the goods covered by this receipt for all such charges and expenses in respect to any other goods stored by depositor for charges for which depositor is liable in any warehouse owned or operated by warehouseman or its subsidiaries wherever located and whenever deposited and without regard to whether or not the other goods have been delivered.

(b) The warehouseman shall have the right to refuse shipment of the goods when monies are due.

(c) The warehouseman's lien may be enforced by public or private sale of the goods in block or in parcels at any time after notification to all persons known to claim an interest in the goods.

(d) The warehouseman has the right to take and to enforce, as provided by law, a security interest in goods for amounts loaned or advanced to the depositor of record.