Standard Contract Terms & Conditions for Merchandise Warehouses

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Approved and promulgated by the American Warehouse Association, October 1968. Revised and promulgated by the International Warehouse Logistics Association, January 1998, November 2008, May 2015, and March 2020.

ACCEPTANCE – Sec. 1

a) This Contract, including accessorial charges that may be attached hereto, must be accepted within 30 days from the proposal date by signature of DEPOSITOR. In the absence of written acceptance, the act of tendering GOODS described herein for storage or other services by WAREHOUSE within 30 days from the proposal date shall constitute acceptance by DEPOSITOR. DEPOSITOR has had the opportunity to review and inspect the warehouse facility ("FACILITY").
b) In the event that GOODS tendered for storage or other services do not conform to the description contained herein, or conforming GOODS are tendered after 30 days from the proposal date without prior written acceptance by DEPOSITOR as provided in paragraph (a) of this section, WAREHOUSE may refuse to accept such GOODS. If WAREHOUSE accepts such GOODS, DEPOSITOR agrees to rates and charges as may be assigned and invoiced by WAREHOUSE and to all terms of this Contract.
c) Any GOODS accepted by WAREHOUSE shall constitute GOODS under this Contract.
d) This Contract may be canceled by either party upon 30 days written notice and is canceled if no storage or other services are performed under this Contract for a period of 180 days.

SHIPMENTS TO AND FROM WAREHOUSE – Sec. 2

DEPOSITOR agrees that all GOODS shipped to and from WAREHOUSE shall identify DEPOSITOR on the bill of lading or other contract of carriage as the named consignee, in care of WAREHOUSE, and shall not identify WAREHOUSE as the consignee. If, in violation of this Contract, GOODS are shipped to WAREHOUSE as named consignee on the bill of lading or other contract of carriage, DEPOSITOR agrees to immediately notify carrier in writing, with copy of such notice to WAREHOUSE, that WAREHOUSE named as consignee is the "in care of party" only and has no beneficial title or interest in the GOODS. Furthermore, WAREHOUSE shall have the right to refuse such GOODS and shall not be liable for any loss, mis-consignment, or damage of any nature to, or related to, such GOODS. The parties agree that, regardless of whether WAREHOUSE is incorrectly identified as named consignee, or DEPOSITOR fails to notify carrier of the incorrect identification on the bill of lading or other contract of carriage, under no circumstances shall WAREHOUSE be considered the consignee for purposes of identifying the "importer" under 21 U.S.C. § 384a. The parties further agree that, regardless of whether WAREHOUSE is named as an "agent" for purposes of 21 U.S.C. § 350d or receives notification from the U.S. government with respect to confirmation of WAREHOUSE'S status as "agent" under 21 U.S.C. § 350d, under no circumstances shall WAREHOUSE be an agent for purposes of identifying the "importer",. WAREHOUSE shall not be responsible for complying with or performing the duties required of an "importer" under 21 U.S.C. § 384a. Whether WAREHOUSE accepts or refuses GOODS shipped in violation of this Section 2, DEPOSITOR agrees to indemnify and hold WAREHOUSE harmless from all claims for transportation, storage, handling and other charges relating to such GOODS, including undercharges, rail demurrage, truck/intermodal detention, and any fines, penalties, costs and expenses (including attorney's fees) and other charges of any nature whatsoever, resulting from DEPOSITOR'S failure to comply with the requirements of this Section 2.

TENDER OF GOODS – Sec. 3

All GOODS shall be delivered at the FACILITY in a segregated manner, properly marked and packaged for storage and 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. WAREHOUSE is not a guarantor of the condition of such GOODS under any circumstances, including, but not limited to hidden, concealed, or latent defects in the GOODS. Concealed shortages, damage, inherent vice or tampering will not be the responsibility of WAREHOUSE.

STORAGE PERIOD AND CHARGES – Sec. 4

a) Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month as per available space as outlined in the attached Exhibit A (Rates & Charges-Scope of Work/Operational Assumptions).
b) The storage month begins on the date that WAREHOUSE accepts care, custody and control of the GOODS, regardless of unloading date or date of issue of warehouse receipt.
c) Except as provided in paragraph (d) of this section, a full month's storage charge will apply on all GOODS received between the first and the 15th, inclusive, of a calendar month; one-half month's storage charge will apply on all GOODS received between the 16th and the last day, inclusive, of a calendar month, and a full month's storage

charge will apply to all GOODS in storage on the first day of the next and succeeding calendar months. All storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of the calendar month.

d) When mutually agreed in writing by the WAREHOUSE and the DEPOSITOR, a storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the storage month.
e) Any invoice over 30 days past due may be assessed a service charge of 2% APR per month or a charge otherwise permitted by law. Any dispute as to the amount of the invoice shall be claimed in writing within 30 days from date of invoice. DEPOSITOR may not offset payment of invoices under any circumstances without the prior written consent of WAREHOUSE.

TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS – Sec. 5

a) Instructions to transfer GOODS on the books of the WAREHOUSE are not effective until delivered to and accepted by WAREHOUSE, and all charges up to the time transfer is made are chargeable to the DEPOSITOR. If a transfer involves re-handling the GOODS, such will be subject to a charge. When GOODS in storage are transferred from one party to another through issuance of a new warehouse receipt, a new storage date is established on the date of transfer.
b) The WAREHOUSE reserves the right to move, at its expense, 14 days after notice is sent by certified mail or overnight delivery to the DEPOSITOR, any GOODS in storage from the FACILITY in which they may be stored to any other of WAREHOUSE'S facilities. WAREHOUSE will store the GOODS at the Facility and may without notice move the GOODS within and between, any one or more of the warehouse buildings which comprise the FACILITY identified on the front of this Contract.
c) WAREHOUSE reserves the right to require advance payment of all past, present, and future charges prior to removal of the GOODS from the Facility.
d) The WAREHOUSE may, upon written notice of not less than 30 days to the DEPOSITOR and any other person known by the WAREHOUSE to claim an interest in the GOODS, require the removal of any GOODS. Such notice shall be given to the last known place of business of the person to be notified. If GOODS are not removed before the end of the notice period, the WAREHOUSE may sell them in accordance with applicable law.
e) If DEPOSITOR fails to remove the GOODS from the FACILITY at the end of the notice period, then in addition to all other damages and remedies to which WAREHOUSE may be entitled, DEPOSITOR shall pay, in addition to the other Rates and charges agreed to, STORAGE charges equal to 150% of the then current STORAGE rate. DEPOSITOR shall be liable, and shall pay to WAREHOUSE within ten (10) days after demand, for all losses incurred by WAREHOUSE as a result of DEPOSITOR'S failure to remove GOODS, and shall indemnify, defend and hold WAREHOUSE and the WAREHOUSE Insured Parties harmless from and against all liabilities, damages, losses, claims, suits, costs and expenses (including reasonable attorneys' fees and costs) arising from or relating to DEPOSITOR'S failure to remove GOODS or WAREHOUSE's removal of GOODS from FACILITY.
f) If WAREHOUSE in good faith believes that the GOODS are about to deteriorate or decline in value to less than the amount of WAREHOUSE'S lien before the end of the

30-day notice period referred to in Section 5(c), the WAREHOUSE may specify in the notification any reasonable shorter time for removal of the GOODS and if the GOODS are not removed, may sell them at public sale held one week after a single advertisement or posting as provided by law.

g) If as a result of a quality or condition of the GOODS of which the WAREHOUSE had no notice at the time of deposit the GOODS are a hazard to other property or to the FACILITY or to persons, the WAREHOUSE may: i) sell the GOODS at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the GOODS, ii) return GOODS freight collect, or iii) dispose of GOODS. Pending such disposition, sale or return of the GOODS, the WAREHOUSE may remove the GOODS from the FACILITY and shall incur no liability by reason of such removal.
h) If, after a reasonable effort, WAREHOUSE is unable to sell the GOODS pursuant to this Section 5, WAREHOUSE may dispose of the GOODS in any lawful manner and shall incur no liability by reason of such disposition.

HANDLING – Sec. 6

a) The handling charge covers the ordinary labor involved in receiving GOODS at warehouse door, placing GOODS in storage, and returning GOODS to warehouse door. Handling charges are due and payable on receipt of GOODS.
b) Unless otherwise agreed in writing, labor for unloading and loading GOODS will be subject to a charge. Additional expenses incurred by the WAREHOUSE in receiving and handling damaged GOODS, and additional expense in unloading from or loading into cars or other vehicles not at warehouse door will be charged to the DEPOSITOR.
c) Labor and materials used in loading rail cars or other vehicles are chargeable to the DEPOSITOR.
d) When GOODS are ordered out in quantities less than in which received, the WAREHOUSE may make an additional charge for each order or each item of an order.
e) DEPOSITOR shall indemnify, defend, and hold WAREHOUSE harmless from all loss, costs, penalties, claims, expenses (including reasonable attorney's fees) for transportation, storage, handling and other charges related to the GOODS, including but not limited to undercharges, rail demurrage, truck/intermodal detention and other charges, asserted by any third-party. WAREHOUSE shall not be liable to DEPOSITOR for any demurrage or detention, any delays in unloading inbound cars, trailers or other containers, or any delays in obtaining and loading cars, trailers or other containers for outbound shipment unless WAREHOUSE has failed to exercise reasonable care as determined by industry practice.

DELIVERY REQUIREMENTS – Sec. 7

No GOODS shall be delivered or transferred except upon receipt by the WAREHOUSE of DEPOSITOR'S complete written instructions. Written instructions shall include, but are not limited to, FAX, EDI, E-Mail or similar communication, provided WAREHOUSE has no liability when relying on the information contained in the communication as received. GOODS may be delivered upon instruction by telephone or electronically in accordance with DEPOSITOR'S prior written authorization, but the WAREHOUSE shall not be responsible for loss or error occasioned thereby. The WAREHOUSE shall not be liable for failure to carry out such instructions and GOODS remaining in storage will continue to

be subject to regular storage charges. When GOODS are ordered out, a reasonable time shall be given to the WAREHOUSE to carry out instructions.

EXTRA SERVICES (SPECIAL SERVICES) – Sec. 8

a) WAREHOUSE labor required for services other than ordinary handling and storage will be charged to the DEPOSITOR.
b) Special services requested by 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; 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 WAREHOUSE'S cost.
d) By prior arrangement, GOODS may be received or delivered during other than usual business hours, subject to a charge.
e) Communication expense including postage, overnight delivery, or telephone may be charged to the DEPOSITOR if such concern more than normal inventory reporting or if, at the request of the DEPOSITOR, communications are made by other than regular United States Mail.
f) WAREHOUSE will take physical inventories and cycle counts as requested by DEPOSITOR, at DEPOSITOR'S expense. Representatives of DEPOSITOR and WAREHOUSE personnel, as well as any independent auditor or designee, may be present when any physical inventory is taken.

BONDED STORAGE – Sec. 9

a) A charge in addition to regular rates will be made for merchandise in bond.
b) Where a warehouse receipt covers GOODS in U.S. Customs bond, WAREHOUSE shall have no liability for GOODS seized or removed by U.S. Customs.

MINIMUM CHARGES – Sec. 10

a) A minimum handling charge per lot and a minimum storage charge per lot per month will be made. When a warehouse receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, or variety will be made.
b) A minimum monthly charge to one account for storage and/or handling will be made. This charge will apply also to each account when one customer has several accounts, each requiring separate records and billing.

LIABILITY AND LIMITATION OF DAMAGES – Sec. 11

a) WAREHOUSE shall not be liable for any loss or damage to GOODS tendered, stored or handled however caused unless such loss or damage resulted from the failure by WAREHOUSE to exercise such care in regard to them as a reasonably careful person would exercise under like circumstances. WAREHOUSE is not liable for damages which could not have been avoided by the exercise of such care.
b) GOODS are not insured by WAREHOUSE against loss or damage however caused.
c) In no event shall WAREHOUSE be liable for any loss or damage caused by:
    a. acts of God; public authorities acting with actual or apparent authority; strikes; labor disputes; weather; mechanical or equipment failures; cyber-attacks; civil commotions; hazards incident to a state of war; acts of terrorism; acts or

omissions of customs or quarantine officials; acts of carriers related to security; the nature of the freight or any defects thereof; inherent vice of the goods; perishable qualities of the merchandise; fires; frost or change of weather; sprinkler leakage; floods; wind; storm; moths; public enemies; or other causes beyond its control;

b. fragile articles injured or broken, unless packed by WAREHOUSE's employees and unpacked by them at the time of delivery;
c. pilferage or theft, unless such loss or damage is caused by the failure of WAREHOUSE to exercise such ordinary care required by law; and
d. concealed damage, or for losses incurred due to the concealed damage of the GOODS.

d) In the event of loss or damage to the GOODS for which WAREHOUSE is legally liable, DEPOSITOR declares that WAREHOUSE'S liability for damages are limited to $0.50 per pound of GOODS damaged or lost, and in no instance shall any one claim exceed the limit of WAREHOUSE'S liability insurance, provided, however, that such liability may at the time of acceptance of this Contract as provided in Section 1 be increased upon DEPOSITOR'S written request on part or all of the GOODS hereunder in which event an additional monthly charge will be made based upon such increased valuation.
e) In no event shall WAREHOUSE be responsible for loss or damage to documents, stamps, securities, artwork, heirlooms, jewelry or other articles of high and unusual value unless a special agreement in writing is made between WAREHOUSE and DEPOSITOR with respect to such articles.
f) The limitation of liability referred to in Section (d) above shall be DEPOSITOR'S exclusive remedy against WAREHOUSE for any claim or cause of action whatsoever relating to loss, damage, and/or destruction of the GOODS and shall apply to all claims including inventory shortage and mysterious disappearance claims unless DEPOSITOR proves by affirmative evidence that WAREHOUSE converted the GOODS to its own use. Any presumption of conversion imposed by law shall not apply.
g) Where loss or damage occurs to tendered, stored or handled GOODS, for which 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 or damage to the GOODS.

NOTICE OF CLAIM AND FILING OF SUIT – Sec. 12

a) Claims by the DEPOSITOR and all other persons must be presented in writing to the WAREHOUSE within a reasonable time, and in no event any later than the earlier of: (i) 60 days after delivery of the GOODS by the WAREHOUSE or (ii) 60 days after DEPOSITOR is notified by the WAREHOUSE that loss or damage to part or all of the GOODS has occurred. Each claim must contain information necessary to identify the GOODS affected, the basis for liability and the amount of the alleged loss or damage, as well as all appropriate supporting documentation.
b) No lawsuit or other action may be maintained by the DEPOSITOR or others against the WAREHOUSE for loss or damage to the GOODS unless timely written claim has been given as provided in paragraph (a) of this section and unless such lawsuit or other action is commenced by no later than the earlier of: (i) nine months after date of delivery by WAREHOUSE or (ii) nine months after DEPOSITOR is notified that loss or damage to part or all of the GOODS has occurred.

c) When GOODS have not been delivered, notice may be given of known loss or damage to the GOODS by mailing of a letter via certified mail or overnight delivery to the DEPOSITOR. Time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by WAREHOUSE.

LIABILITY FOR CONSEQUENTIAL DAMAGES – Sec. 13

With respect to any claim arising from or related to this agreement, or otherwise arising from the relationship of the parties, in no event, whether as a result of breach of WAREHOUSE'S duties, negligence liability without fault or any other legal theory or basis, will WAREHOUSE be liable for special, indirect, incidental, exemplary, statutory, punitive, or consequential damages of any kind, including but not limited to lost profits or loss of market, lost sales, lost income, or damages due to business interruption, attorney's fees or punitive damages, or damage to property, loss of use of Goods, cost of substituted Goods, delayed delivery or failure to attempt delivery, regardless of whether such damages were foreseeable or WAREHOUSE had notice of the possibility of such damages.

LIABILITY FOR MIS-SHIPMENT AND CHARGEBACKS – Sec. 14

a) If WAREHOUSE negligently mis-ships GOODS, the WAREHOUSE shall pay the reasonable transportation charges incurred to return the mis-shipped GOODS to the FACILITY. If the consignee fails to return the GOODS, WAREHOUSE'S maximum liability shall be for the lost or damaged GOODS as specified in Section 11 above, and WAREHOUSE shall have no liability for damages due to the consignee's acceptance or use of the GOODS whether such GOODS be those of the DEPOSITOR or another.
b) WAREHOUSE shall not be responsible for chargebacks of any kind.
c) Any and all claims made pursuant to this Section must be in compliance with the requirements set forth in Section 12 and are limited per the provisions set forth in Section 13

RECALL – Sec. 15

In the event a recall, field alert, product withdrawal or field correction (together, "Recall") may be necessary with respect to any GOODS provided under this Contract, DEPOSITOR shall immediately notify WAREHOUSE in writing. WAREHOUSE will not act to initiate a Recall without the express prior written approval of DEPOSITOR unless otherwise required by applicable laws. The cost of any Recall shall be borne by DEPOSITOR. DEPOSITOR shall indemnify and hold harmless the WAREHOUSE from all loss, cost, penalty, and expense (including reasonable attorneys' fees) which WAREHOUSE pays or incurs as a result of a Recall.

FORCE MAJEURE – Sec. 16

Neither party shall be liable to the other for default in the performance or discharge of any duty or obligation under this Contract, except for DEPOSITOR'S obligation to pay for services rendered by WAREHOUSE, when caused by acts of God, hurricanes, tidal waves, flood, tornadoes, cyclone, wind storm, earthquake, public enemy, civil commotion, strikes, labor disputes, work stoppages or other difficulties within the workforce, failure to provide power by the utility provider, intentional or malicious acts of third persons or any other organized opposition, cyber-attacks, viruses, corruption, depredation,

accidents, explosions, fire, water sprinkler leakage, moths, vermin, insect, seizure under legal process, embargo, prohibition of import or export of GOODS, closure of public highways, railways, airways or shipping lanes, governmental interference, order, regulation, or other action(s) by governmental authority, national, regional, or local emergency(ies), plague, epidemic, pandemic, outbreaks for infectious disease or any public health crisis, including but not limited to compliance with related practices required or recommended by governmental or health organizations (including but not limited to quarantine or other employee restrictions) or other contingency(ies), similar or dissimilar to the foregoing, beyond the reasonable control of the affected party. Upon the occurrence of such an event the party seeking to rely on this provision shall promptly give written notice to the other party of the nature and consequences of the cause. If the cause is one which nevertheless requires WAREHOUSE to continue to protect the GOODS, DEPOSITOR agrees to pay the storage or similar charges associated with WAREHOUSE'S obligation during the continuance of the force majeure. All GOODS are stored, handled, and transported at DEPOSITOR'S sole risk of loss, damage, or delay caused by any of the above.

RIGHT TO STORE GOODS – Sec. 17

DEPOSITOR represents and warrants that DEPOSITOR is lawfully possessed of the GOODS and has the right and authority to store them with WAREHOUSE. DEPOSITOR agrees to indemnify and hold harmless the WAREHOUSE from all loss, cost and expense (including reasonable attorneys' fees) which WAREHOUSE pays or incurs as a result of any dispute or litigation, whether instituted by 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 WAREHOUSE'S lien.

ACCURATE INFORMATION – Sec. 18

DEPOSITOR represents and warrants to WAREHOUSE that there are no known potential health, safety and/or environmental hazards associated with the storage and handling of the GOODS that have not been disclosed to and acknowledged by WAREHOUSE. Notwithstanding, DEPOSITOR will provide WAREHOUSE with information concerning the GOODS which is accurate, complete and sufficient to allow WAREHOUSE to comply with all laws and regulations concerning the storage, handling and transporting of the GOODS. DEPOSITOR will indemnify and hold WAREHOUSE harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which WAREHOUSE pays or incurs as a result of DEPOSITOR failing to fully discharge this obligation.

CONFIDENTIALITY – Sec. 19

a) The Parties shall keep in confidence and not disclose to any third party (i) the terms of this Contract, and (ii) any confidential or proprietary information ("Confidential Information") that either learns about the other Party, such as, but not limited to, the rates, value, origin, destination, or consignee of any GOODS or shipment made hereunder. The Parties may disclose such terms and information to the extent required by law, to obtain financing, to substitute service providers to the extent necessary to provide such substitute service, or to auditors retained for the purpose of assessing the accuracy of freight bills.

b) WAREHOUSE will maintain and enforce safety and physical security procedures with respect to its possession and maintenance of Confidential Information that comport with the standard of care outlined in Section 11 of this Contract, and which provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration or unauthorized disclosure, removal or access of Confidential Information. WAREHOUSE will not be liable for any breach of security or unauthorized access affecting Confidential Information which could not be avoided by the exercise of such reasonable care.

SEVERABILITY, WAIVER, and ASSIGNMENT – Sec. 20

a) If any provision of this Contract, 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 Contract shall not be affected thereby but shall remain in full force and effect.
b) WAREHOUSE'S failure to require strict compliance with any provision of this Contract shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this Contract.
c) The provisions of this Contract shall be binding upon the heirs, executors, successors and assigns of both DEPOSITOR and WAREHOUSE; contain the sole agreement governing GOODS tendered to the WAREHOUSE; and cannot be modified except by a writing signed by WAREHOUSE and DEPOSITOR.
d) DEPOSITOR shall not assign or sublet its interest or obligations herein, including, but not limited to, the assignment of any monies due and payable, without the prior written consent of WAREHOUSE.

LIEN – Sec. 21

WAREHOUSE shall have a general warehouse lien for all lawful charges for storage and preservation of the GOODS; also, for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing coopering, and other charges and expenses in relation to such GOODS, and for the balance on any other accounts that may be due. WAREHOUSE further claims a general warehouse lien for all such charges, advances and expenses with respect to any other GOODS stored by the DEPOSITOR in any other facility owned or operated by WAREHOUSE. In order to protect its lien, WAREHOUSE reserves the right to require advance payment of all charges prior to shipment of GOODS. Unless expressly stated otherwise in writing, WAREHOUSE will not subordinate its lien to any lender, financial institution, or any other third party.

DOCUMENTS OF TITLE - Sec. 22

Documents of title, including warehouse receipts, may be issued either in physical or electronic form at the option of the parties. Any inconsistencies between the terms of the warehouse receipt and this Contract shall be governed by this Contract.

GOVERNING LAW AND JURISDICTION – Sec. 23

This Contract and the legal relationship between the parties hereto shall be governed by and construed in accordance with the substantive laws of the state where the FACILITY is located, including Article 7 of the Uniform Commercial Code as ratified in that state, notwithstanding its conflict of laws rules. Any lawsuit or other action involving any

dispute, claim or controversy relating in any way to this Contract shall be brought only in the appropriate state or federal court in the state where the FACILITY is located.

The parties acknowledge the Limitation of Liability and Damages in Section 11.

Proposed by WAREHOUSE

Company Name	**Authorized Signature**	**Date**

Accepted for DEPOSITOR

Company Name	**Authorized Signature**	**Date**