

Standard Contract Terms and Conditions for Merchandise Warehousemen

In these terms and conditions the following terms have the following meanings: (a) "warehouseman" means Nova Cold Logistics ULC (carrying on business as "Americold"), its affiliates (for greater certainty this includes, but is not limited to, 3333493 Nova Scotia Company and its successors and assigns), employees, servants, successors and assigns; (b) "depositor" means the owner of the goods or party for whose account the goods are stored; (c) "warehouse" means the warehouseman's warehouse complex identified on the front side of any receipt to which these terms and conditions are attached; and (d) "Contract" means any warehouseman's receipt or agreement (attaching or incorporating by reference these standard contract terms and conditions) entered into between warehouseman and depositor.

ACCEPTANCE - SEC. 1

- (a) Subject to applicable law in force in the Province where the goods covered by this Contract are stored, this Contract and rate quotation including accessorial charges endorsed on or attached hereto must be accepted within 30 days from the proposal date by signature of depositor on the reverse side of any receipt to which these terms and conditions are attached. In the absence of written acceptance, the act of tendering goods described herein for storage or other services by warehouseman within 30 days from the proposal date shall constitute such acceptance by depositor.
- (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, warehouseman may refuse to accept such goods. If warehouseman accepts such goods, depositor agrees to rates and charges as may be assigned and invoiced by warehouseman and to all terms of this Contract.
- (c) This Contract may be canceled (i) by either party upon 30 days written notice and (ii) is canceled if no storage or other services are performed under this Contract for a period of 180 days.

SHIPPING - SEC. 2

Depositor agrees not to ship goods to warehouseman as the named consignee. If, in violation of this Contract, goods are shipped to warehouseman as named consignee depositor agrees to notify carrier in writing prior to such shipment, with copy of such notice to the warehouseman that warehouseman named as consignee is a warehouseman and has 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, storage, handling and other 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 such goods and shall not be liable or responsible for any loss, injury or damage of any nature to, or related to, such goods.

TENDER FOR STORAGE - SEC. 3

- (a) All goods tendered for storage shall be delivered at the warehouse 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. If such manifest is not provided, warehouseman may commingle and store the goods in bulk or assorted lots in freezer, cooler or general storage at the discretion of warehouseman and charges for such storage will be made at then applicable rates as published or quoted by warehouseman. Warehouseman shall not be responsible for segregating goods by production code date or otherwise unless specifically agreed to in writing.
- (b) Depositor warrants that the goods tendered for storage are not infested with pests, bacteria or any other contaminants whatsoever and that the goods do not now and will not in the future present or constitute a danger to warehouseman, its affiliates or its employees, to other products or to the warehouse. Depositor hereby agrees to hold warehouseman and its affiliates harmless from and indemnify warehouseman and its affiliates against any and all losses, expenses, damages and costs, including reasonable lawyers' fees and court costs, arising from or attributable to a breach of the aforesaid warranty.

STORAGE PERIOD AND CHARGES - SEC. 4

- (a) All charges for storage are per package or other agreed unit per month.
- (b) Storage charges become applicable upon the date that warehouseman 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 by the warehouseman 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. Any and all charges not paid on such date are subject to an interest charge from such date until paid at the lesser of 1.5% per month (18% per annum).

TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS - SEC. 5

- (a) Instructions to transfer 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 chargeable to the depositor of record. If a transfer involves rehandling 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 warehouseman reserves the right to move, at its expense, 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, any goods in storage from the warehouse in which they may be stored to any other of his warehouses; but if such depositor or holder takes delivery of his goods in lieu of transfer, no storage charge shall be made for the current storage month warehouseman will store the goods at, and may without notice move the goods within and between, any one or more of the warehouse buildings which comprise the warehouse complex identified on the front of any receipt to which these terms and conditions are attached.
- (c) The warehouseman may, upon written notice to the depositor of record and any other person known by the warehouseman to claim an interest in the goods, require the removal of any goods by the end of the next succeeding storage month. Such notice shall be given to the last known place of business or abode of the person to be notified. 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 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 public sale 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 on 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 the goods from the warehouse and shall incur no liability by reason of such removal.

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, labor for unloading and loading goods will be subject to a charge. Additional expenses incurred by the warehouseman 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 warehouseman may make an additional charge for each order or each item of an order.
- (e) The warehouseman shall not be liable for demurrage or detention, delays in unloading inbound cars, trailers or other containers, or delays in obtaining and loading cars, trailers or other containers for outbound shipment unless warehouseman has failed to exercise reasonable care.

DELIVERY REQUIREMENTS - SEC. 7

- (a) No goods shall be delivered or transferred except upon receipt by the warehouseman of complete written instructions. Written instructions shall include, but are not limited to, FAX, EDI, TWX or similar communication, provided warehouseman has no liability when relying on the information contained in the communication as received. However, when no negotiable receipt is outstanding, goods may be delivered upon instruction by telephone in accordance with a prior written authorization, but the warehouseman shall not be responsible for loss or error occasioned thereby.
- (b) When a negotiable receipt has been issued no goods covered by that receipt shall be delivered, or transferred on the books of the warehouseman, unless the receipt, properly endorsed, is surrendered for cancellation, or for endorsement of partial delivery thereof. If a negotiable receipt is lost or destroyed, delivery of goods may be made only upon order of a court of competent jurisdiction and the posting of security approved by the court as provided by law.
- (c) When goods are ordered out a reasonable time shall be given the warehouseman to carry out instructions, and if he is unable because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots and civil commotions, or any reason beyond the warehouseman's control, or because of loss or destruction of goods for which warehouseman is not liable, or because of any other excuse provided by law, the warehouseman 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.

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; repairing, re-cooping, sampling, weighing, repiling or inspecting the 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 warehouseman'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, teletype, telegram, or telephone will 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 Canadian mail.

BONDED STORAGE - SEC. 9

A charge in addition to regular rates will be made for merchandise in bond pursuant to the Customs Suffrance Warehouses Regulations of the Government of Canada.

MINIMUM CHARGES-SEC. 10

- (a) A minimum handling charge per lot and a minimum storage charge per lot per month will be made. When any 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.

WAREHOUSEMAN'S LIEN - SEC 11

- (a) All advances and charges are due and payable prior to delivery or transfer of the stored goods. The warehouseman shall have a lien upon, right of retention and security interest in all goods of depositor at any time heretofore and hereafter deposited by depositor in any warehouse owned or operated by the warehouseman. Such lien, right of retention and security interest shall be for all charges, advances and expenses in relation to such goods of depositor, and losses caused by such goods, whether or not heretofore released from the warehouse. The warehouseman shall also have a prior claim for payment of such amounts, where provided by applicable legislation. In the event of nonpayment of any such amounts, the warehouseman has the right, after reasonable notice, to sell or otherwise dispose of the goods in any manner he may reasonably think fit to satisfy his lien, right of retention, security interest and prior claim, subject to legislation in force governing the disposition of such articles in the province where such articles are stored.

- (b) In addition, if, for any reason, the goods of depositor are removed or released from the warehouse at a time when amounts in relation to such goods are still owing by the depositor to the warehouseman, the depositor acknowledges that the warehouseman shall have the right to file financing statements and/or financing change statements in each applicable jurisdiction to evidence its lien in such goods. The depositor acknowledges any such indebtedness and agrees, for the purposes of the foregoing, that (i) the Contract constitutes a "security agreement" within the meaning of applicable personal property security legislation, (ii) the depositor has rights in such goods, and (iii) the depositor and the warehouseman have not agreed to postpone the time of attachment of such lien. The depositor acknowledges receipt of an executed copy of the Contract and, to the extent permitted by applicable law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with the Contract or any verification statement issued with respect to any such financing statement or financing change statement.

LIABILITY AND LIMITATION OF DAMAGES - SEC. 12

THE WAREHOUSEMAN SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY TO GOODS STORED HOWEVER CAUSED UNLESS SUCH LOSS OR INJURY RESULTED FROM THE FAILURE BY 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.

GOODS ARE NOT INSURED BY THE WAREHOUSEMAN AGAINST LOSS OR INJURY HOWEVER CAUSED. STORAGE RATES DO NOT INCLUDE INSURANCE UNLESS SO SPECIFIED BY WAREHOUSEMAN IN WRITING.

THE DEPOSITOR DECLARES THAT DAMAGES ARE LIMITED TO **\$0.50 per pound of goods lost or damaged**, 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.

WHERE LOSS OR INJURY OCCURS TO STORED GOODS, FOR WHICH THE WAREHOUSEMAN IS NOT LIABLE, THE DEPOSITOR SHALL BE RESPONSIBLE FOR THE COST OF REMOVING AND DISPOSING OF SUCH GOODS AND THE COST OF ANY ENVIRONMENTAL CLEAN UP AND SITE REMEDIATION RESULTING FROM THE LOSS OR INJURY TO THE GOODS.

NOTICE OF CLAIM AND FILING OF SUIT - SEC. 13

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 60 days after delivery of the goods by the warehouseman or 60 days after depositor of record or the last known holder of a negotiable warehouse receipt is notified by the warehouseman that loss or injury to part of all of the goods has occurred, whichever time is shorter.

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 9 months after date of delivery by warehouseman or within 9 months after depositor of record or the last known holder of a negotiable warehouse receipt is notified that loss or injury to part or all of the goods has occurred, which ever time is shorter.

When goods have not been delivered, notice may be given of known loss or injury to the goods by mailing of a registered or certified letter to the depositor of record or to the last known holder of a negotiable warehouse receipt time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by warehouseman.

LIABILITY FOR CONSEQUENTIAL DAMAGES-SEC. 14

With respect to any claim arising from or related to this Contract, or otherwise arising from the relationship of the parties, warehouseman shall not be liable for any special, incidental, punitive, exemplary, indirect, or consequential damages of any kind, including but not limited to lost profits, lost sales, or damages due to business interruption, regardless of whether such damages were foreseeable or warehouseman had notice of the possibility of such damages.

LIABILITY FOR MISSHIPMENT - SEC. 15

If warehouse negligently misships goods, the warehouseman shall pay the reasonable transportation charges incurred to return the misshipped goods to the warehouse. If the consignee fails to return the goods, warehouseman's maximum liability shall be for the lost or damaged goods as specified in Section 12 above, and warehouseman 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. Warehouse shall not be responsible for chargebacks of any kind.

MYSTERIOUS DISAPPEARANCE - SEC. 16

Warehouseman 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 warehouseman's failure to exercise the care required of warehouseman under Section 12 above. Any presumption of conversion imposed by law shall not apply to such loss and a claim by depositor of conversion must be established by affirmative evidence that the warehouseman converted the goods to the warehouseman's own use.

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 warehouseman. Depositor agrees to indemnify and hold harmless the warehouseman from all loss, cost and expense (including reasonable lawyers' fees) which warehouseman pays or incurs as a result of any dispute or litigation, whether instituted by warehouseman or others, respecting depositor's right, title or interest in the goods and in connection with the storage, handling and disposition of the goods received hereunder. Such amounts shall be charges in relation to the goods and subject to warehouseman's lien, right of retention, security interest and prior claim.

ACCURATE INFORMATION - SEC. 18

Depositor will provide warehouseman with information concerning the stored goods which is accurate, complete and sufficient to allow warehouseman to comply with all laws and regulations concerning the storage, handling and transporting of the stored goods. Depositor will indemnify and hold warehouseman harmless from all loss, cost, penalty and expense (including reasonable lawyers' fees) which warehouseman pays or incurs as a result of depositor failing to fully discharge this obligation.

SEVERABILITY AND WAIVER - SEC. 19

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.

Warehouseman'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.

The provisions of this Contract shall be binding upon the depositor's heirs, executors, successors and assigns; and, cannot be modified except by a writing signed by warehouseman.

MISCELLANEOUS - SEC. 20

The parties agree that this Contract shall be governed by the law of the Province within Canada in which the warehouse is located. All disputes arising out of or in connection with this Contract, or in respect of any legal relationship associated with or derived from this Contract, shall be finally resolved by arbitration, under the Arbitration Rules of the ADR Institute of Canada, Inc. The number of arbitrators shall be one. The seat of arbitration shall be the capital of the Province in which the Goods are stored. The language of the arbitration shall be English.

This Contract will not be assigned by depositor without the prior written consent of warehouseman. Warehouseman may assign this Contract at any time; provided that notice of the assignment is provided to depositor.

Documents, including this Contract, may be issued either in physical or electronic form at the option of the parties. These terms and conditions have been drafted in English at the request of the parties. *Les parties ont requis que les présentes modalités et conditions soient rédigées en langue anglaise.*

Unless specified otherwise, all statements or references to dollar amounts in this Contract are to lawful money of Canada.

This Contract supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements, representations and undertakings between warehouseman and depositor whether written or oral.