

2600 Internationale Parkway
Woodridge, IL 60517
630.739.6760 phone
630.739.6790 fax

PUBLIC WAREHOUSING AGREEMENT
TERMS AND CONDITIONS

PAYMENT Sec. 1

- (a) Client hereby agrees that all amounts due for services purchased from MIDWEST WAREHOUSE & DISTRIBUTION SYSTEM, INC. are payable to the following address:
Attention: MIDWEST WAREHOUSE & DISTRIBUTION SYSTEM, INC.
2600 Internationale Parkway
Woodridge, IL 60517
- (b) Client hereby agrees that all invoices are to be paid in full within 30 (thirty) days from the date of invoice. Client agrees to pay, in the event its account becomes delinquent and is turned over to any attorney for collection, reasonable attorney's fees plus all court and attendant collection costs.
- (c) Upon termination of services for whatever reason and prior to the removal of all of the goods from the warehouse, Client agrees to pay all open invoices in full.

ACCEPTANCE Sec. 2

- (a) In the absence of written acceptance, the act of tendering goods described herein shall constitute acceptance by Client of the contract rates and terms.
- (b) If goods tendered do not conform to the description contained herein, or conforming goods are tendered after 30 days from the proposal date without written acceptance, Warehouseman may refuse to accept such goods. If Warehouseman accepts such goods, Client agrees to rates as may be invoiced by Warehouseman and to all terms of this contract.
- (c) This contract may be canceled by either party upon 90 days written notice and is canceled if no services are performed for a period of 90 days.

SHIPPING TO AND FROM WAREHOUSE Sec. 3

Client agrees that all Goods shipped to Warehouse shall identify Client 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, Client 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, misconsignment, or damage of any nature to, or related to, such Goods. Whether Warehouse accepts or refuses Goods shipped in violation of this Section 3, Client 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 other charges of any nature whatsoever.

TENDER FOR STORAGE Sec. 4

Client represents and warrants that Client is lawfully possessed of the Goods and has the right and authority to store them with Warehouse. Client 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 Client's right, title or interest in the Goods. All goods for storage shall be delivered at the warehouse properly marked and packaged for handling. Client shall furnish, at or prior to delivery, a manifest showing marks, brands or sizes to be kept and accounted for separately, and the class of storage and other services desired. STORAGE PERIOD AND CHARGES Sec. 5

- (a) Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month. When based on weight, rates are computed on gross weight.
- (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 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) Anniversary Storage: When mutually agreed in writing by the Warehouse and the Client, 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.

STORAGE PERIOD AND CHARGES Sec. 5

- (a) Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month. When based on weight, rates are computed on gross weight.
- (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 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.

Midwest Warehouse & Distribution System, Inc.

Rev (6): 08/01/13

2600 Internationale Parkway
Woodridge, IL 60517
630.739.6760 phone
630.739.6790 fax

TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS Sec. 6

- (a) Instructions to transfer goods on the books of Warehouseman are not effective until delivered to and accepted by Warehouseman. All charges up to the time transfer is made are chargeable to Client. 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 written notice is sent to the Client, any good in storage at the facility to any other facility of Warehouseman.
- (c) Warehouseman may, without notice, move goods within the warehouse in which such goods are stored.
- (d) If as a result of quality or condition of the goods of which the Warehouse had no notice at the time of deposit, or if the goods are a hazard to other goods stored at the facility, or to persons, or to the facility itself, after written notification to the Client and lack of action by the Client within five (5) business days thereafter, the warehouse may dispose of the goods in a lawful manner and shall incur no liability for such disposition. Any disposal costs shall be the responsibility of the Client.
- (e) Warehouseman may, upon written notice to Client and any other person known by 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 of the person to be notified. If goods are not removed before the end of the next succeeding storage month, Warehouseman may sell them in accordance with the law.

WAREHOUSEMAN'S LIEN Sec. 7

References within this Section 7 are made with respect to Chapter 810 ICS. Warehouseman will assert and perfect his lien to collect past due charges.

- (a) Warehouse shall have a general warehouse lien for all lawful charges for handling, storage, transportation, accessorial charges and preservation of the goods, and all 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 with respect to any other goods stored by the Warehouse 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.

HANDLING Sec. 8

- (a) Handling charges cover the ordinary labor involved in receiving goods at warehouse door, placing goods in storage and returning goods to warehouse door, all during normal business hours. Handling charges are invoiced upon receipt of goods.
- (b) Unless otherwise agreed, extra labor and materials for unloading and loading goods will be subject to a charge. Additional expenses incurred by Warehouseman in receiving and handling damaged goods.
- (c) Labor and materials used in loading rail cars or other vehicles are chargeable to the Client.
- (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) The Warehouse shall not be liable for any demurrage or detention, and 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.

DELIVERY REQUIREMENTS Sec.9

- (a) Goods shall be delivered or transferred by Warehouseman only with instructions properly provided via EDI, email or regular mail from Client. When goods are delivered upon instructions by telephone, Warehouse shall not be responsible for resulting loss or error.
- (b) When goods are ordered out, a reasonable time shall be given to Warehouseman to carry instructions and, if he is unable to do so because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots and civil commotions, or any reason beyond Warehouseman's control, or because of loss or destruction to goods for which Warehouseman is not liable, or because of any other excuse provided by law, Warehouseman shall not be liable for failure to carry out such instructions.

EXTRA SERVICES (SPECIAL SERVICES) Sec.10

- (a) Warehouse labor required for services other than ordinary handling and storage will be charged to Client.
- (b) Special services request by Client 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 Client at a charge in addition to 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 Client if such concern more than normal inventory reporting or if, at the request of Client, communications are made by other than regular United States Mail.

BONDED STORAGE Sec. 11

- (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, such receipt shall be void upon the termination of the storage period fixed by law.

MINIMUM CHARGES Sec. 12 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.

- (a) 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.

2600 Internationale Parkway
Woodridge, IL 60517
630.739.6760 phone
630.739.6790 fax

LIABILITY AND LIMITATION OF DAMAGES Sec.13

- (a) Warehouseman shall not be liable for any loss or injury to goods stored, however caused, unless such loss or injury resulted from the failure of Warehouseman to exercise such care in regard to the stored goods as a reasonable careful man would exercise under like circumstances and Warehouseman is not liable for damages which could not have been avoided by the exercise of such care.
- (b) Goods are not insured by Warehouseman against loss or injury however caused.
- (c) Client acknowledges that under the reasonably careful Warehouseman standard of (a), Warehouseman shall not be responsible for shrinkage or loss in weight nor for loss or damage to goods resulting from improper packing, insufficient cooperage, breakage, boxing, crating, wear and tear, rust, corrosion or inherent qualities of the goods. Nor under such standard, shall Warehouseman be responsible or liable for loss of goods by leakage or through failure to detect same or for concealed damage. All goods stored at owner's risk of loss, damage or delay by acts of God, civil or military authority, enemies of the government, insurrections, riots, strikes, civil commotions, seizure under legal process, labor disputes, lockouts, or intentional or malicious acts of third persons or any other organized opposition, windstorm, cyclone, corruption, earthquakes, tidal waves, tornadoes or degradation or any cause beyond the control of Warehouseman.
- (d) **Loss Limitation:** In the case of goods lost or damaged due to causes for the Warehouseman is responsible, the manufacturer's cost of the goods involved shall be the measure of damages, but in no instance shall Warehouseman's liability exceed 150 times the base storage rate on a package, cube or per cwt. basis - or 25 cents per pound, whichever is less, unless excess valuation is declared by Client at the time the goods are stored, in which case an additional monthly charge will be made.
- (e) **Liability for Consequential Damages** – Warehouseman shall not be liable for any loss of profit or special, indirect, or consequential damages of any kind arising from services or other activities performed pursuant to this Agreement.
- (f) **Liability for Misshipment and Chargebacks** – If Warehouseman negligently misships goods, the Warehouseman shall pay the reasonable transportation charges incurred to return such goods to Warehouseman facility and the reasonable transportation charges to ship the proper product. If the consignee fails to return the goods, Warehouseman's maximum liability for the lost or damaged goods shall be as specified in damage limitation found in this agreement, 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 Client or another.
- (g) **Client's WMS System:** In the event that the Warehouseman is utilizing the Client's Warehouse Management System only, and the Client has the ability to manipulate the inventory records without visibility and approval by the Warehouseman, then the Warehouseman will have no liability for inventory shrinkage.
- (h) **Shrink:** The Client and Warehouseman agree to an annual shrink and damage allowance of .5% (1/2 of one %).
- (i) **Forbearance:** Any forbearance by Warehouseman under provisions (a) through (h) above shall not be construed as a waiver of such provision; rather, the same shall remain in full force and affect.
- (j) **Charge-Backs:** In the event that the Consignee shall charge-back the Client or the Warehouseman for Warehouseman's failure to follow the Consignee's shipping requirements including but not limited to EDI transmissions, carrier selection, application of labels, palletizing, timely shipping, etc, the Warehouseman's liability for failure to comply with Client's instructions shall be limited to maximum total amount of \$100.00 per shipment. In the event of multiple concurrent shipments released to the same customer in various destinations, claims shall be limited to an aggregate maximum of \$1,000.00.
- (k) **Mysterious Disappearance:** Warehouseman shall be responsible for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods only if depositor establishes such loss occurred because of Warehouseman's failure to exercise the care required under this Section 13.. Any assumption 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.

NOTICE OF CLAIM Sec. 14

- (a) Claims by Client and all other persons must be presented in writing to Warehouseman within a reasonable time and in no event longer than either 60 days after delivery of the goods by Warehouseman, or 60 days after Client or the last known holder of a negotiable warehouse receipt is notified by Warehouseman that loss or injury to the goods has incurred, whichever time is shorter.
- (b) No action may be maintained by Client or others against Warehouseman for loss or injury to the goods stored unless timely written claim has been given as provided in paragraph (a) of this and unless such action is commenced either within nine months after date of delivery by Warehouseman, or within nine months after Client 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, whichever time is shorter.
- (c) When goods have not been delivered, notice may be given of known loss or injury to the goods by mailing a registered or certified letter to Client of record or to the last known holder of a negotiable warehouse receipt. Time limitation for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by Warehouseman.

GOVERNING LAW AND JURISDICTION Sec. 15

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.

ACCURATE INFORMATION Sec 16

Client 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. Client 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 Client failing to fully discharge this obligation.

DOCUMENTS OF TITLE Sec 17

Midwest Warehouse & Distribution System, Inc.

Rev (6): 08/01/13

2600 Internationale Parkway

Woodridge, IL 60517

630.739.6760 phone

630.739.6790 fax

Documents of title, including warehouse receipts, may be issued in physical or electronic form at the option of the Warehouseman. Electronic invoices may be submitted by Warehouseman to Client without attaching these Standard Terms and Conditions. In such event, it is agreed that these Standard terms And Conditions will continue to apply.