

TERMS AND CONDITIONS FOR WAREHOUSE STORAGE

1. Definitions:

In these terms and conditions:

- (a) "Advance" means all sums due or claimed to be due to Storer from Holder and others relating to the Goods regardless of the source, whether liquidated or not, including but not limited to loans, disbursements, charges made for or on account of Holder or Goods, necessary for the preservation of Goods or reasonably incurred in their sale or disposition pursuant to law.
- (b) "Goods" means the personal property and/or any portion thereof described in the Receipt which the Storer as has agreed to receive and store.
- (c) "Holder" means the person, firm, corporation or other entity for whom Goods described in the Receipt are stored and to whom the Receipt is issued and any other person or entity claiming any interest in the Goods. Holder shall have the equivalent meaning to the term "Depositer" under applicable legislation.
- (d) "Lot" means the unit or units of Goods which are separately identified by the Storer.
- (e) "Receipt" means the non-negotiable warehouse receipt, entitled "Warehouse Storage Receipt", issued by the Storer acknowledging the receipt for storage of the Goods, of which these terms and conditions form a part.
- (f) "Storer" means Absolute Freight Services Ltd., located at 8 Old Char Wharf, Station Road, Dorking, Surrey, RH4 1EF United Kingdom, which receives the Goods for storage and issues the Receipt for same. As used in Sections 7 and 8 hereof, Storer includes officers, directors, employees and agents of Storer while acting within the scope and course of their employment. Storer shall have the equivalent meaning to the terms "Warehouser", "Warehouseman" or "Depository" under applicable legislation.

2. Tender for Storage.

- (a) All Goods for storage shall be delivered to the Storer properly marked or labelled and packed for handling.
- (b) Holder 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 desired. Otherwise the Goods may be stored in bulk or assorted Lots in freezer, cooler or general storage at the discretion of the Storer and charges for such storage will be made at the applicable storage rate.
- (c) Receipt and delivery of all or any units of a Lot shall be made without subsequent sorting except by special arrangement and subject to a charge established by Storer.
- (d) It is the responsibility of the Holder to show correct descriptions, weights and quantities of the Goods. If descriptions, weights and quantities are not provided by Holder or the actual descriptions, weights and quantities of the Goods received pursuant to the Receipt are inconsistent with the descriptions, weights and quantities stated in the Receipt, then the descriptions, weights and quantities generated or calculated by the Storer and described in the Receipt shall be conclusively deemed to be correct.
- (e) Unless Holder shall have given, at or prior to delivery of the Goods, written instructions to the contrary, Storer, in its discretion, may commingle and store different Lots of fungible Goods in bulk, whether or not owned by the same Holder.
- (f) Storer shall store and deliver the Goods only in the packages in which they are originally received unless otherwise agreed in writing.
- (g) Storer shall not be responsible for segregating the Goods by production code date or otherwise, unless specifically agreed in writing.
- (h) All incoming shipments shall be consigned to the person entitled to receive the Goods as described in the Receipt c/o of the Storer, freight prepaid. The Storer reserves the right to refuse acceptance of any Goods not properly consigned or not shipped freight prepaid.

3. Contract

- (a) The Receipt, when delivered, mailed or otherwise transmitted to the Holder at its last known address, shall constitute the contract between the Depositor and Storer provided that the Depositor may, within 20 days after delivery, mailing or other transmittal, notify the Storer in writing that it does not accept the contract and forthwith thereafter shall pay any Storer's outstanding charges or liens for outstanding charges and remove the Goods from Storer's warehouse. In the event no such notice is given, the Receipt and the terms and conditions contained herein shall be deemed to constitute the contract between the Storer and the Holder.
- (b) The Receipt and the contract for the storage of the Goods described herein are governed by and subject to the laws of the Province in which the Goods are stored.

4. Storage Charges

- (a) Storage charges are the charges levied by the Storer for the storage of the Goods ("Storage Charges"). Storage Charges commence upon the date that the Storer accepts the care, custody and control of the Goods for storage regardless of the unloading date or the date that the Receipt is issued. Any Storage Charges made with respect to the Goods described in the Receipt shall conform to the Storer's rates. No increase in the Storage Charge rates will be made with respect to Goods that are already in storage without a 30 day notice first being transmitted to the Holder. Storage Charges pertain only to the cost of storage of the Goods and do not include handling charges of any kind or any other charges.
- (b) Storage Charges shall be computed separately for each Lot. Storage Charges for Goods are typically billed weekly. Storage Charges may (at the election of the Storer) be billed monthly for reels, packaging and non-perishable items.
- (c) If the Storage Charge rates are not indicated on the Receipt, the rates shall be as set forth in the rate quotation, invoice, or other document issued by the Storer to Holder and/or in Storer's tariff.
- (d) Unless Storer specifies otherwise, all Storage Charges are due and payable on the first day of storage for the initial period and thereafter on the first day of each succeeding storage period.
- (e) Rates quoted by weight will, unless otherwise specified, be computed on gross weight and 1,000 Kgs shall constitute a ton.

5. Handling Charges

- (a) Handling charges are charges levied by the Storer for the handling of the Goods ("Handling Charges"). Unless otherwise specified in writing or elected by Storer, Handling Charges shall cover only the ordinary labour and duties incidental to receiving and delivering unitized Goods on pallets at the warehouse dock during normal warehouse hours, but do not include loading and unloading of delivery vehicles. Handling Charges shall be set out in the invoices rendered by the Storer to the Holder.
- (b) When Goods are ordered out in quantities less than in which received, the Storer may make additional charge for each order or each item of an order.
- (c) Delivery by the Storer of less than all units of any Lot or of less than all the fungible Goods stored for Holder shall be made without subsequent sorting, except by special arrangement and subject to an additional charge.

6. Other Services and Charges

- (a) Other services rendered in the interest of Holder or the Goods are chargeable to Holder. Such services may include, but are not limited to, the following: loading and unloading of delivery vehicles, stuffing cargo into containers and lashing to secure same, stripping unit load or break-bulk cargo from containers, furnishing of special warehouse space or material, repairing, coopering, sampling, weighing, repiling, inspecting, compiling stock statements, making collections, furnishing revenue stamps, reporting or recording marked weights or numbers, handling railroad expense bills, and handling shipments.
- (b) All Advances are due and payable immediately. All charges are due and payable upon the date of invoice. All charges and Advances not paid within 30 days from the due date are subject to an interest charge, from the date of said charge or Advance first became due until paid, at the lesser of 1.5% per month or the maximum interest rate allowed by law.
- (c) Storer shall supply dunnage bracing and fastenings where it deems it appropriate on outbound shipments and the cost thereof is chargeable to Holder.
- (d) Any additional costs incurred by Storer in unloading railcars or trucks containing damaged Goods are chargeable to Holder.
- (e) A Charge in addition to regular storage and handling rates will be made for bonded storage.
- (f) All Storage, handling and other services may be subject to minimum charges.
- (g) Holder agrees to pay Storer all exigible taxes, including goods and services taxes and applicable sales taxes.

7. Liability and Limitation of Damages of Storer

- (a) Storer shall not be liable for any loss, damage or destruction of Goods, however caused, unless such loss, damage or destruction resulted from the Storer's failure to exercise such care and diligence in regard to the Goods that a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances. Storer is not liable for damages which could not have been avoided by the exercise of such care.
- (b) **IN THE EVENT OF LOSS, DAMAGE OR DESTRUCTION OF GOODS FOR WHICH STORER IS LEGALLY LIABLE, AND WHETHER SUCH LOSS, DAMAGE OR DESTRUCTION ARISES FROM STORAGE, HANDLING OR OTHER SERVICES PROVIDED PURSUANT TO THE RECEIPT, THE STORER'S LIABILITY IS STRICTLY LIMITED TO THE LESSER OF THE FOLLOWING:**
 - (I) THE MONETARY AMOUNT OF THE DAMAGE INCURRED;
 - (II) THE FAIR MARKET VALUE OF THE LOST, DAMAGED AND/OR DESTROYED GOODS ON THE DATE STORER IS NOTIFIED OF THE LOSS, DAMAGE AND/OR DESTRUCTION;
 - (III) 50 TIMES THE MONTHLY STORAGE CHARGE APPLICABLE TO SUCH LOST, DAMAGED AND/OR DESTROYED GOODS; OR
 - (IV) £1.00 (GBP) PER KILOGRAM FOR SAID LOST, DAMAGED AND/OR DESTROYED GOODS.

HOWEVER WITHIN A REASONABLE TIME AFTER ITS RECEIPT OF THE WAREHOUSE RECEIPT, HOLDER MAY, UPON WRITTEN NOTICE TO THE STORER, REQUEST AN INCREASE IN STORER'S LIABILITY ON PART OR ALL OF THE GOODS STORED UNDER THE RECEIPT, IN WHICH CASE AN INCREASED CHARGE MAY BE IMPOSED BASED UPON SUCH INCREASED VALUATION. HOWEVER, NO SUCH REQUEST SHALL BE VALID UNLESS CONFIRMED IN WRITING BY STORER AND MADE BEFORE LOSS, DAMAGE OR DESTRUCTION TO ANY PORTION OF THE GOODS.

- (c) Under circumstances in which the Storer is responsible for shipment of Goods and errors in shipment occur, any liability of the Storer shall be strictly limited to the cost of transportation and costs involved to rectify such error and shall not, under any circumstances, include liability for damages due to the acceptance or use of said Goods.
- (d) The Storer's liability referred to in sections 5(b) and 5(c) shall be the Holder's exclusive remedy against the Storer for any claim or cause of action whatsoever relating to the Goods whether founded in contract, statute, negligence or otherwise and shall apply to all claims including but not limited to inventory shortage and mysterious disappearance claims, except in the instance of inventory shortage and mysterious disappearance claims with regard to which Holder proves by affirmative evidence that the Storer converted the Goods to its own use. The Holder waives any right to rely upon any presumption of conversion imposed by law.
- (e) The Storer shall not, under any circumstances, be liable for any incidental, special or consequential damages, direct or indirect economic loss or punitive or exemplary damages of any kind whatsoever.
- (f) In the event of damage or threatened damage to Goods, Holder shall pay all reasonable and necessary costs of protecting and preserving the Goods. When the costs of protecting and preserving stored property are attributed to more than one Holder, said costs shall be apportioned among all affected Holders on a pro rata basis to be determined by the Storer.
- (g) Storer and Holder agree that Storer's duty of care referred to in section 7(a) does not extend to providing a sprinkler system and any Storer warehouse or any portion thereof. Unless otherwise specifically agreed in writing, Storer shall not be required to store Goods in a humidity controlled environment or be responsible for tempering Goods.

8. Exclusions from Liability

- (a) The Storer shall not be liable for loss, damage, destruction or delay in delivery of Goods caused by or resulting from conditions or forces beyond its reasonable control including, but not limited to, utility shutdowns, power blackouts or brown outs, operating system breakdowns, fire, flood, explosion, seizure under legal process, riots, strikes, lockouts, labour disputes, civil commotion, acts of God, The Queen's or public enemies, defect or inherent vice in the Goods, an act or default of the Holder of the Goods, authority of law, quarantine or difference in weights of grain, seed or other commodities caused by natural shrinkage.
- (b) The Storer and all affiliated companies shall not be liable for loss or damage due to the theft of Goods and/or equipment or other goods from lands owned or leased by the Storer where:
 - (I) Equipment or other goods were left on the Storer's property by the Holder or its agent or carrier as part of a trailer spotting arrangement.
 - (II) The Goods were loaded onto equipment parked on the Storer's lands awaiting pick up by the Holder or another person entitled to delivery of the Goods or their agent; or
 - (III) Equipment containing the Goods was parked on Storer's lands by the Holder or its agent or carrier awaiting transfer into Storer's warehouse.

The Holder of the Goods acknowledges that the theft of or damage to the Goods and/or equipment or other goods from Storer's lands under each of the above circumstances is a risk necessarily incidental to the transfer of the Goods into and out of Storage and for which the Storer shall not be liable with regard

to loss or damage to the Goods described in the Receipt or the loss of equipment or other goods of the Holder, and its agents or carriers.

- (c) Storer shall not be responsible for delays in loading or unloading trailers or railcars nor for demurrage or freight charges or other time-related penalties arising from any delay which could not have reasonably been avoided by Storer in the normal course of business.
- (d) Storer shall have reasonable time to make delivery after Goods are ordered out and shall have a minimum of ten (10) business days after receipt of a delivery order in which to locate any misplaced Goods. If Storer has exercised appropriate care and vigilance and is unable, due to causes beyond its control, to effect delivery before expiration of the current storage period, the Goods will continue to be subject to Storage Charges for each succeeding storage period.

9. Notice of Claim

- (a) The Storer shall not, in any event, be liable for any claim of any type whatsoever with respect to loss, damage to and/or destruction of Goods unless such claim is presented in writing within a reasonable time, not exceeding 60 days, after the Holder discovers, or exercising reasonable care ought to have discovered, the loss, damage to and/or destruction of the Goods.
- (b) As a condition precedent to making any claim and/or filing suit, Holder shall provide the Storer with a reasonable opportunity to inspect the Goods which are the basis of the Holder's claim.
- (c) **NO LAWSUIT OR OTHER ACTION MAY BE MAINTAINED BY THE HOLDER OR OTHERS AGAINST THE STORER WITH RESPECT TO THE GOODS UNLESS A TIMELY WRITTEN CLAIM HAS BEEN MADE AS PROVIDED IN SECTION 9(a), THE HOLDER HAS PROVIDED THE STORER WITH A REASONABLE OPPORTUNITY TO INSPECT THE GOODS AS PROVIDED IN SECTION 9(b) AND SUCH LAWSUIT OR OTHER ACTION IS COMMENCED WITHIN (9) MONTHS AFTER THE HOLDER LEARNS, OR, HAVING EXERCISED REASONABLE CARE, SHOULD HAVE LEARNED OF THE LOSS, DAMAGE TO AND/OR DESTRUCTION OF THE GOODS.**

10. Insurance

The Goods described in the Receipt are not insured by the Storer and the Storage Charges do not include insurance on the Goods, unless Storer has agreed, in writing, to obtain such insurance for the benefit of Holder.

11. Termination of Storage

- (a) The Storer may, upon written notice, as required by law, require the removal of the Goods, or any portion thereof, from its warehouse upon the payment of all charges attributable to said Goods with such removal to be implemented by Holder within a stated period, not less than thirty (30) days after such notification. If said Goods are not so removed, Storer may sell them as provided by law and shall be entitled to exercise any rights it has under the law with respect to the Goods.
- (b) If, in the opinion of the Storer, the Goods may be about to deteriorate or decline in value to less than the amount of the Storer's lien thereon, or may constitute a hazard to other property or to the warehouse or persons, the Goods may be removed or disposed of by the Storer as permitted by law. All charges related to said removal shall be paid by the Holder.

12. Right to Lien/Sell Goods

All Advances and charges attributable to Goods are due and payable prior to delivery of the Goods. The Storer shall have a first priority lien upon, right of retention and security interest as against the Holder and any third party claiming through or on behalf of Holder in all Goods deposited, in any warehouse owned or operated by the Storer. Such lien, right of retention and security interest shall exist in respect of all charges, Advances and expenses for storage, handling, transportation (including demurrage and terminal charges), insurance, labour, and other charges present or future with respect to the Goods and for expenses necessary for prevention of the Goods reasonably incurred in their sale or disposition pursuant to law. Storer shall also have a lien on the Goods for all such charges, Advances and expenses with respect to any other property stored by Holder in any warehouse owned or operated by Storer or its subsidiaries or affiliates, wherever located and whenever deposited. In the event of non-payment by the Holder or where the Holder is not in good credit standing, the Storer may continue to hold the Goods described in this Receipt or sell and dispose of such Goods, on notice to the Holder, as prescribed by law, at Storer's sole discretion and the Holder agrees to pay the Storer for any costs incurred in the continued storage and disposal of the Goods.

13. Articles of Extraordinary Value

The Storer is not bound to store any documents, specie or articles of extraordinary value other than by special written agreement with the Storer. If such Goods are stored without a special written agreement and the nature of the Goods is not disclosed on the Receipt, then the Storer shall not be liable for any loss or damage to the goods in excess of the maximum liability stipulated in Section 7(b) above.

14. Dangerous Goods

It is the Holder's responsibility to provide the Storer, in advance, with detailed, written information and instructions concerning any Goods that may be considered dangerous or hazardous, regardless of whether they are regulated under the *Transportation of Dangerous Goods Act* or comparable legislation. The Holder shall indemnify the Storer against any and all loss, liability, damage and legal costs incurred by Storer caused by the Holder's failure to disclose such information. The Storer shall have the right to reject for storage any dangerous or hazardous substances and the warehousing of such Goods shall be solely at the risk and expense of the Holder.

15. Access and Inspection

The Holder may, subject to the Storer's security and insurance requirements and other reasonable limitations, have access to the Goods which are the subject of the Receipt at any reasonable time, provided the Holder, or its authorized representative, is accompanied by an employee of the Storer whose time shall be an additional charge payable by the Holder.

16. Transfer

- (a) Any transfer of the Receipt by the Holder to a third party is of no force and effect upon the Storer until the Holder has given written notice to the Storer of the transfer. The Storer may rely upon such notice to receive and act upon instructions from the transferee without liability or recourse by the Holder as against the Storer. The Storer reserves the right not to deliver or transfer the Goods to or for the account of others except upon receipt of written instructions properly signed by the Holder.
- (b) All instructions for transfer of the Receipt by the Holder to a third party shall be received subject to satisfaction of all charges, liens and security interests of the Storer with respect to the Goods, whether for accrued charges, Advances or otherwise.
- (c) Holder may furnish written instructions authorizing Storer to accept telephone orders for delivery. In such case:
 - (i) Storer may require that each telephone order be confirmed by Holder in writing within twenty-four (24) hours; and
 - (ii) Acceptance by Storer of any telephone order shall be at the risk of the Holder. Storer will not be liable for any loss resulting from delivery made pursuant to a telephone order, whether or not so authorized, unless Storer has failed to exercise appropriate care and vigilance with respect thereto.
- (d) The Storer may require, prior to the release of the Goods, a statement from the Holder holding the Storer harmless from claims of others asserting a superior right to the Holder to possession of the Goods.
- (e) Nothing herein shall preclude the Storer from exercising any other remedy available to it at law to resolve conflicting claims to possession of the Goods. All costs, including reasonable legal fees, incurred by Storer relating in any way to Storer's activities referred to in this section 16(e) shall be charged to Holder and shall, for purposes of Section 12, be considered "charges present or future with respect to the Goods" and shall attach as a lien on the Goods.

17. Waiver and Severability

- (a) Storer's failure to insist upon strict compliance with any provision of the Receipt shall not constitute a waiver or estoppel to later demand strict compliance thereof and shall not constitute a waiver or estoppel to insist upon strict compliance with all other provisions of Receipt.
- (b) In the event that any section of the Receipt or part thereof shall be declared invalid, illegal and/or unenforceable, the validity, legality and enforceability of the remaining sections and parts shall not in any way be affected or impaired thereby.

18. Authority

Holder represents and warrants that it either (i) is the lawful owner of the Goods which are not subject to any lien or security interest of others; or (ii) is the authorized agent of the lawful owner and/or any holder of lien or security interest in the Goods and has full power and authority to enter into the agreement set forth herein as applicable to the Goods referenced in the Receipt and, by doing so, binds itself and any such third parties to the terms and conditions of same. Holder agrees to notify all parties acquiring any interest in the Goods of the terms and conditions of the Receipt as set forth herein and to obtain, as a condition of granting such an interest, the agreement of such parties to be bound by the terms and conditions of the Receipt.

19. Accurate Information

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

20. Notices

All written notices provided herein may be transmitted by any commercially reasonable means of communication and directed to Storer at the address on the Receipt and to the Holder at its last known address. Holder is presumed to have knowledge of the contents of all notices transmitted in accordance with this Section within (5) days of transmittal.

21. Entire Agreement

- (a) Unless otherwise agreed upon in writing between Storer and Holder, the Receipt and these Terms and Conditions shall constitute the entire agreement between Holder and Storer relating to the Goods referenced in the Receipt and shall supersede all existing agreements between them whether written or oral and shall not be changed, amended or modified except upon written agreement signed by representatives of Holder and Storer duly authorized for that purpose.
- (b) If Holder has received the Receipt by electronic means and the electronically transmitted Receipt does not include these Terms and Conditions, these Terms and Conditions shall be deemed incorporated by reference as if fully set forth in the electronic Receipt.