



## T.C. TRADING COMPANY

Simplifying Your Business Across Borders

## Contract Terms and Conditions

### SECTION 1 – DEFINITIONS

As used in this Warehouse Receipt or CONTRACT and Rate Quotation the following terms have the following meanings:

- (a) AGREEMENT. TC Trading Company's receipt or rate quotation containing these Contract Terms and Conditions.
- (b) STORER. The person, firm corporation or other entity for whom the goods described herein are stored and to whom this CONTRACT is issued and anyone else claiming an interest in the goods.
- (c) TC TRADING COMPANY includes officers, directors, employees and agents of TC Trading Company while acting within the scope and course of their employment.
- (d) WAREHOUSE. The TC Trading Company's warehouse complexes.
- (E) GOODS. The personal property and any portion thereof described herein which TC Trading Company has agreed to receive, handle and/or store pursuant to this CONTRACT.

### SECTION 2 – TENDER FOR STORAGE

- (a) STORER agrees that all GOODS for storage shall be delivered at TC Trading Company properly marked and packed for handling.
- (b) STORER 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 TC Trading Company and at the applicable storage rate.
- (c) STORER will provide TC Trading Company with accurate and complete information concerning the GOODS sufficient to allow TC Trading Company to comply with all laws and regulations concerning the storage, handling and transportation of the GOODS and will indemnify and hold TC Trading Company harmless from all loss, cost, penalty and expense (Including reasonable attorneys' fees) as a result of STORER's failure to do so.
- (d) Receipt and delivery of the GOODS shall be made without sorting except by special arrangement which may be subject to a charge.
- (e) Unless otherwise agreed to in writing, TC Trading Company shall store and deliver GOODS only in the packages in which they are original received and shall not segregate GOODS by production code date.
- (f) STORER agrees that all GOODS shipped to TC Trading Company shall identify STORER on the bill of lading or other contract of carriage as the consignee, in care of TC Trading Company, and shall not identify TC Trading Company as the consignee. If, contrary to this requirement, GOODS are shipped to TC Trading Company as consignee, STORER shall indemnify and hold TC Trading Company harmless from all claims for transportation, storage, handling and other charges relating to such GOODS.

### SECTION 3 – TERMINATION OF STORAGE

- (a) TC Trading Company may, upon written notice, require the removal of the GOODS or any portion thereof, from the WAREHOUSE within a stated period, not less than 30 days after such notification. If said GOODS are not so removed, TC Trading Company may sell them as provided by law and shall be entitled to exercise any other rights it has under the law with respect to said GOODS.
- (b) If, in the opinion of TC Trading Company, GOODS may be about to deteriorate or decline in value to less than the amount of TC Trading Company's lien, or may constitute a hazard to other property or to the WAREHOUSE or persons, the GOODS may be removed or disposed of by TC Trading Company as permitted by law. All charges related thereto shall be paid by STORER.

#### **SECTION 4 – STORAGE LOCATION**

- (a)The GOODS shall be stored, at TC Trading Company's discretion, at any one or more buildings at the WAREHOUSE. The identification of any specific location within the WAREHOUSE does not guarantee that the GOODS shall be stored there.
- (b)Unless otherwise agreed in writing, TC trading Company may, at any time, at its expense, and without notice to STORER, remove any GOODS from any room or area of the WAREHOUSE to any other room or area thereof.
- (c)Upon ten days written notice to STORER, TC Trading Company may, at its expense, remove the GOODS to any other warehouse operated by TC Trading Company.

#### **SECTION 5 – STORAGE CHARGES**

- (a)Receiving charges cover the first calendar month of storage. Storage charges are first of the month, all products in inventory.
- (b)TC Trading Company's storage and other charges are set forth in the RATE QUOTATION or other document issued by TC Trading Company to STORER and/or TC trading Company's tariff and may be increased on 30 days notice.
- (c)Unless TC Trading Company's specifies otherwise all storage charges are fully earned and are due and payable on the 1<sup>st</sup> day of each month.
- (d)Rates quoted by weight will, unless otherwise specified, be computed on gross weight.

#### **SECTION 6 – HANDLING/RECEIVING CHARGES**

- (a)Unless otherwise specified, handling/receiving charges cover only the ordinary labor and duties incidental to receiving and delivering unitized GOODS on pallets at the WAREHOUSE dock during TC Trading Company's normal business hours but do not include loading and unloading.
- (b)Unless otherwise specified, a charge in addition to the regular handling charges will be made for any work performed by TC Trading Company other than as specified in Section 6(a), at TC Trading Company's then current rates which are available upon request.
- (c)When GOODS are ordered out in quantities less than in which received, TC Trading Company may make an additional charge for each order or each item of an order.
- (d)Delivery by TC Trading Company of less than all units of any lot shall be made without subsequent sorting except by special arrangement which may be subject to an additional charge.

#### **SECTION 7 – CROSS DOCK/ UNLOADING AND LOADING**

- (a)Unless otherwise specified, cross dock, unloading and loading charges cover only the ordinary labor and duties incidental to cross docking, unloading and loading unitized GOODS on pallets at the WAREHOUSE dock during TC Trading Company's normal business hours.
- (b)Unless otherwise specified, a charge in addition to the regular handling charges will be made for any work performed by TC Trading Company other than as specified in Section 6(a), at TC Trading Company's then current rates which are available upon request.

#### **SECTION 8 – TRANSFER; DELIVERY**

- (a)Instructions by STORER to transfer GOODS to the account of another are not effective until accepted by TC Trading Company. Charges will be made for each transfer and for any re-handling deemed by TC Trading Company to be required thereby. TC Trading Company reserves the right not to deliver or transfer GOODS except upon receipt of written instructions signed by STORER.
- (b)STORER may authorize TC Trading Company in writing to accept telephone orders for delivery. In such case, delivery by TC Trading Company pursuant to telephone order shall be at STORER'S risk.
- (c)TC Trading Company shall have a reasonable time to make delivery after GOODS are ordered out and shall have a minimum of ten business days after receipt of a delivery order in which to locate any misplaced GOODS.
- (d)If TC Trading Company is unable, due to any cause beyond its control, to effect delivery before expiration of the then current storage period, the GOODS may, at TC Trading Company's discretion, be subject to storage charges for each succeeding storage period.

(e) All instructions and requests for delivery and/or transfer of GOODS are received subject to satisfaction of all charges, liens and security interests of TC Trading Company. Upon termination of the storage relationship for any reason, TC Trading Company may refuse to deliver the GOODS until it has been fully paid for all charges then due it regardless of the payment terms otherwise applicable to such charges.

(f) TC Trading Company may require, as a condition to delivery, a statement from STORER holding TC Trading Company harmless from claims of others asserting rights to the GOODS. TC Trading Company may also exercise any other remedy available to it under the law to resolve conflicting claims to the GOODS. All costs, charges and expenses, including reasonable attorneys' fees, incurred by TC Trading Company relating in any way to TC Trading Company's activities referred to in this Section 7(f) shall be charged to STORER and shall be considered charges with respect to the GOODS and subject to TC Trading Company's general warehouse lien.

## **SECTION 9 – OTHER SERVICES AND CHARGES**

(a) Other services rendered in the interest of STORER or the GOODS are chargeable to STORER.

(b) All charges are due and payable upon the date on invoice. All charges not paid within 30 days from the due date are subject to an interest charge, from the date said charge became due until paid, at 1.5% per month or the maximum amount allowed by law.

(c) STORER may, subject to reasonable limitations, inspect the GOODS when accompanied by an employee of TC Trading Company whose time is chargeable to STORER.

(d) In the event of damage or threatened damage to the GOODS, STORER shall pay all reasonable and necessary costs of protecting and preserving the GOODS and for clean-up and disposal of damaged and destroyed GOODS. When such costs are attributable both to GOODS of STORER and property of others, said costs shall be apportioned among STORER and others on a pro rata basis as determined by TC Trading Company.

(e) TC Trading Company shall supply dunnage bracing and fastenings where it deems it appropriate on outbound shipments and the cost thereof is chargeable to STORER.

(f) Any additional costs incurred by TC Trading Company in unloading railcars or trucks containing damaged GOODS are chargeable to STORER.

(g) TC Trading Company shall not be responsible for detention or demurrage charges or delays in loading or unloading unless such detention or demurrage charge or delay was caused solely by TC Trading Company's negligence.

(h) Unless otherwise noted, an additional charge will be made for bonded storage.

(i) TC Trading Company may assess an additional charge when GOODS, designated for cooler or freezer storage, are received at temperatures more than five degrees Fahrenheit above the applicable room temperature. TC Trading Company shall not be responsible for blast freezing GOODS.

(j) All storage, handling and other services may be subject to minimum charges.

(k) STORER agrees to pay TC Trading Company all costs, charges and expenses including reasonable attorney's fees incurred by TC Trading Company in connection with the storage, handling and/or disposition of the GOODS, including without limitation, such EXPENSES relating to lawsuits (including Bankruptcy proceedings) involving in any way said GOODS and/or STORER's performance under this CONTRACT. All such EXPENSES shall constitute charges with respect to the GOODS and subject to TC Trading Company's general warehouse lien.

(l) STORER shall reimburse TC Trading Company for the cost of all pallets supplied by TC Trading Company.

(m) TC Trading Company may charge STORER an energy surcharge in the event of an increase in TC Trading Company's energy costs by providing STORER with no less than 30 days prior notice.

## **SECTION 10 – LIABILITY AND LIMITATION OF DAMAGES**

(a) TC Trading Company shall not be liable for any loss or destruction of or damage to GOODS, however caused, unless such loss, destruction or damage resulted from TC Trading Company's failure to exercise such care in regard to the GOODS as a reasonable careful person would exercise under like circumstances. TC Trading Company shall not be liable for any loss or destruction of or damage to GOODS that could not have been avoided by the exercise of such care.

(b) TC Trading Company and STORER agree that TC Trading Company's duty of care referred to in Section 9(a) does not extend to providing a sprinkler system at the WAREHOUSE or any portion thereof.

(c) Unless specifically agreed to in writing, TC Trading Company shall not be required to store GOODS in a humidity controlled environment or be responsible for tempering GOODS.

**(d) IN THE EVENT OF LOSS OR DESTRUCTION OF OR DAMAGE TO GOODS FOR WHICH COMPANY IS LEGALLY LIABLE, STORER DECLARES THAT TC TRADING COMPANY'S LIABILITY SHALL BE LIMITED TO \$0.50 PER POUND FOR SAID LOST, DAMAGED, AND DESTROYED GOODS, PROVIDED, HOWEVER THAT WITHIN A REASONABLE TIME AFTER RECEIPT OF THIS CONTRACT, STORER MAY REQUEST, IN WRITING, AN INCREASE IN TC TRADING COMPANY'S LIABILITY ON PART OR ALL OF THE GOODS IN WHICH CASE AN INCREASED CHARGE WILL BE MADE BASED UPON SUCH INCREASED VALUATION; FURTHER PROVIDED THAT NO SUCH REQUEST SHALL BE VALID UNLESS MADE BEFORE LOSS OR DESTRUCTION OF OR DAMAGE TO ANY PORTION OF THE GOODS HAS OCCURRED.**

(e) TC Trading Company's liability referred to in Section 9(d) shall be STORER'S exclusive remedy for any claim or cause of action whatsoever relating to loss or destruction of or damage to GOODS. STORER waives any right to rely upon any presumption of conversion imposed by law.

(f) In no event shall STORER be entitled to recover any incidental, special, punitive, or consequential damages of any type or description.

(g) If TC Trading Company negligently misships GOODS, TC Trading Company, at its option, shall pay the reasonable transportation charges to return the misshipped GOODS to the WAREHOUSE or the value of the misshipped GOODS based upon Section 9(d). TC Trading Company shall have no liability whatsoever for any damages due to the consignee's acceptance or use of the GOODS.

### **SECTION 11 – NOTICE OF CLAIM AND FILING OF SUIT**

**(a) TC Trading Company shall not be liable for any claim of any type whatsoever including, without limitation, any claim for loss or destruction of or damage to GOODS unless such claim is presented, in writing, within a reasonable time, not exceeding the earlier of (1) within 14 days after delivery of GOODS by TC Trading Company or (2) 14 days after STORER learned or, in the exercise of reasonable care, should have learned of such loss or destruction of or damage to the GOODS or the basis for any other claim against TC Trading Company.**

(b) As a condition precedent to filing any lawsuit or other action, STORER shall provide TC Trading Company with a reasonable opportunity to inspect the GOODS which are the basis of STORER'S claim.

**(c) NO LAWSUIT OR OTHER ACTION MAY BE MAINTAINED BY STORER OR OTHERS AGAINST COMPANY UNLESS A TIMELY WRITTEN CLAIM HAS BEEN MADE AS PROVIDED IN SECTION 11(a) AND UNLESS STORER HAS PROVIDED TC TRADING COMPANY WITH A REASONABLE OPPORTUNITY TO INSPECT THE GOODS AS PROVIDED IN SECTION 10(b) AND UNLESS SUCH LAWSUIT OR OTHER ACTION IS COMMENCED WITHIN THE EARLIER OF (1) FOURTEEN (14) DAYS AFTER DELIVERY OF GOODS BY TCTRADING COMPANY OR (2) FOURTEEN (14) DAYS AFTER STORER LEARNED OR, IN THE EXERCISE OF REASONALBE CARE, SHOULD HAVE LEARNED OF THE LOSS OR DESTRUCTION OF OR DAMAGE TO THE GOODS OR THE BASIS FOR ANY OTHER CLAIM AGAINST TC TRADING COMPANY.**

(d) Any lawsuit or other action against TC Trading Company must be brought in the state or province where the WAREHOUSE is located and will be governed by the laws of such state or province.

### **SECTION 12 – INSURANCE**

The GOODS are not insured by TC Trading Company and the storage rates do not include insurance on the GOODS.

### **SECTION 13 – LIEN**

TC Trading Company shall have a general warehouse lien against the GOODS and on the proceeds thereof for all charges for storage, handling, transportation (including detention, demurrage and terminal charges), insurance, labor and other charges present or future with respect to the GOODS, advances or loans by TC Trading Company in relation to the GOODS and for expenses necessary for the preservation of the GOODS or reasonably incurred in their sale pursuant to law. TC Trading Company further claims a general warehouse lien on the GOODS for all other such charges, advances and expenses due TC Trading Company or any related entity from STORER for property stored by STORER in any warehouse owned or operated by TC Trading Company or any related entity wherever located. TC Trading Company reserves the right to require advance payment of all charges prior to releasing GOODS regardless of otherwise applicable payment terms.

**SECTION 14 – WAIVER – SEVERABILITY**

(a) TC Trading Company's failure to insist upon strict compliance with any provision of this CONTRACT shall not constitute a waiver of or estoppels to later demand strict compliance with said provision or to insist upon strict compliance with all other provisions of this CONTRACT.

(b) In the event any Section of this CONTRACT or part thereof shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining Sections and parts shall not, in any way, be affected or impaired thereby.

**SECTION 15 – AUTHORITY**

STORER represents and warrants that it is either (a) the lawful owner of the GOODS which are not subject to any lien or security interest of others; or (b) the authorized agent of the lawful owner or any holder of a lien or security interest and has full power and authority to enter into the agreements incorporated in this CONTRACT. STORER agrees to notify all parties acquiring any interest in the GOODS of the Terms and Conditions of this CONTRACT and to obtain, as a condition of granting any interest, the agreement of such parties to be bound by such contract Terms and Conditions.

**SECTION 16 – NOTICES**

All written notices required herein may be transmitted by any commercially reasonable means of communication and directed to TC Trading Company at the address on the front hereof and to STORER is presumed to have knowledge of the contents of all notices transmitted in accordance with this Section 15 within five days of transmittal.

**SECTION 17 – ENTIRE AGREEMENT**

This CONTRACT constitutes the entire agreement between TC Trading Company and STORER relating to the GOODS and supersedes all existing agreements between them whether written or oral and shall not be changed, amended or modified except by written agreement signed by representatives of TC Trading Company and STORER.

Revised 04/16/2014

T.C. TRADING COMPANY