

**Winnipeg Warehouse and Distribution
STANDARD CONTRACT TERMS AND CONDITIONS FOR GENERAL
MERCHANDISE**

It is agreed that "Winnipeg Warehouse and Distribution- Warehouse Standard Contract Terms and Conditions ("Terms and Conditions") electronically published at <http://www.Winnipegwarehouse.com>, as amended, which are by this reference incorporated, shall govern the agreement of the parties. A copy of the Terms and Conditions may or may not be physically attached to documentation utilized by and between the parties. In the event of any conflict between documentation of transactions between the parties and the Terms and Conditions electronically published, the electronically published provisions shall control. The parties explicitly acknowledge that the Terms and Conditions may be amended from time to time and expressly agree that any dispute between them shall be governed by the electronically published Terms and Conditions existing at the time that any dispute arises regardless of whether those provisions are the same or different than those previously existing.

1. DEFINITIONS

- a) WWD: Shall mean Lexington Real Estate Holdings Ltd doing business as Winnipeg Warehousing and Distribution, and its servants, agents, employees and successors and assigns;
- b) Stored Goods: Shall mean those real goods delivered to WWD for storage and/or crossdocking, unloading, breakdown, repacking, reloading and forwarding;
- c) Storer: Shall mean the owner of the Stored Goods or his agent and shall include the holder of a negotiable receipt, any party with a security interest in the Stored Goods and the party delivering the Stored Goods to WWD;
- d) Warehousing Charge: Shall mean the sum of all charges payable hereunder to WWD in accordance with the terms herein contained;
- e) Crossdocking: Shall mean the acceptance of a shipment of Stored Goods by WWD, for redelivery as hereinafter set out, the unloading in accordance with instructions received from the Storer and reloading of the said component parts all within 24 hours of arrival of the Stored Goods at the premises of WWD and in circumstances where no additional units of Stored Goods are intermingled with the Stored Goods being crossdocked;
- f) Additional Charge: Shall have the meaning attributed to it in paragraph 14(b) hereof;
- g) Crossdocking Charge: Shall mean the amount charged by WWD for receipt and delivery of units in circumstances where no additional units are intermingled therewith and no Storage Charges or Additional Charge is applicable thereto;
- h) Storage Charge: Shall mean the sums charged by WWD in connection with the Stored Goods as set forth in paragraph 7 hereof;
- i) Storage Unit: or "unit", shall mean the unit or measure of stored goods that is used to determine billings for handling and storage services, and shall be the unit or measure upon which the limit of WWD's liability is determined under paragraphs 15 and 16;
- j) Delivery: as defined in paragraph 13.a.

2. TENDER FOR STORAGE

- a) All Stored Goods shall be, and the Storer shall bear all costs of ensuring that they are at the time of delivery to WWD, properly marked and packed for handling, storing, and forwarding or Crossdocking as the case may be;
- b) The Storer shall furnish a manifest showing marks, brands, SKUs or sizes to be kept and accounted for separately and the class of storage desired, provided that until such time as the said manifest has been delivered to WWD, the Stored Goods may be stored in bulk or assorted units in general storage as determined at the sole discretion of WWD and the Storer will be charged accordingly. WWD will not be liable for any damage occurring due to improper storage prior to delivery of the manifest;
- c) WWD undertakes the storage, handling, delivery, or Crossdocking of the Stored Goods only in the units in which they are originally received without subsequent sorting, except by special arrangement subject to an Additional Charge;
- d) Stored Goods which are hazardous by their nature and the storage of which in a public warehouse under ordinary general conditions is prohibited by government or local regulation or decision of WWD or which will or may affect the rate or availability of insurance on other Stored Goods or WWD's premises will not be accepted for storage.

3. ACCEPTANCE OF GOODS

- a) All Stored Goods are tendered to WWD subject to the availability of space at the time of delivery of the Stored Goods to WWD and to the terms and conditions hereof.

4. HANDLING

- a) Handling charges subject to a minimum handling charge shall be incurred by the Storer for the ordinary labour and duties incidental to receiving the Stored Goods at the warehouse door, the storing of same and subsequent redelivery thereof to the warehouse door. The handling charges or minimum handling charge will be billed as part of the Warehousing Charge for the first month of storage.

An Additional Charge for the unloading or loading of vehicles, vessels or containers of any nature will be charged to the Storer unless otherwise agreed in writing and signed by WWD. This Additional Charge shall be due when incurred.

5. LOADING AND UNLOADING

- a) Charges for unloading or loading of vehicles, vessels or containers, and charges for the use or retention of the vehicle, vessel or container and the collection or delivery thereof are all chargeable to the Storer;

- b) Dunnage and fastenings supplied by WWD and used in loading outbound vehicles, vessels or containers are an Additional Charge to the Storer;

- c) Any costs incurred by WWD in unloading vehicles, vessels or containers containing damaged goods are an Additional Charge to the Storer.

6. CROSSDOCKING

- a) Where all or part of a shipment received by WWD is received for the purposes of Crossdocking, it shall be assessed only the Crossdocking Charge.

7. STORAGE CHARGES

- a) Unless otherwise agreed to in writing, all monthly charges for storage of Stored Goods are based on a calendar month and are calculated on a month-to-month basis. An incoming Storage Charge shall be applicable for the date in the calendar month on which any part of the Stored Goods is brought in for storage, to and including the last day of such month and thereafter a recurring Storage Charge shall be applicable for each calendar month that the Stored Goods are stored with WWD. The full month incoming Storage Charge is payable as soon as any part of the Stored goods is deposited with WWD notwithstanding the fact that such Stored Goods may be stored for less than a calendar month. The recurring Storage Charge is calculated on the basis of the maximum number of units stored with WWD on the last day of the immediately preceding calendar month and is due on the first day of each storage month in advance unless otherwise agreed.

8) INSURANCE

- a) Stored Goods are not insured by WWD and the Warehousing Charge does not include insurance unless specified in writing and signed by WWD. It is the sole responsibility of the Storer to ensure the Stored Goods are insured.

9. ACCESS TO STORED GOODS

- a) The Storer may, subject to WWD's security and insurance regulations and reasonable limitations, have access to the Stored Goods at any reasonable time provided the Storer is accompanied by an employee of WWD whose time shall be an Additional Charge to the Storer.

10. PROCEDURES

- a) Except for express written instructions from the Storer, WWD shall have absolute discretion regarding methods and procedures followed in the handling, storage and transport of Stored Goods. In addition, if WWD deems it necessary or desirable in the interests of the Storer to deviate from the Storer's written instructions it shall have absolute right so to do. Instructions to ship goods are not effective until delivered to and accepted by WWD.

11. TRANSFERS AND REMOVAL

- a) WWD shall have the right to move at its own expense the Stored Goods of the Storer within the warehouse in which the Stored Goods are stored or to any other warehouse of WWD.
- b) Instructions from the Storer to transfer Stored Goods on the books of WWD are not effective until delivered to and accepted by WWD and all charges up to the time transfer is made are chargeable to the Storer and payable before the transfer is made. Such a transfer shall be subject to an appropriate Additional Charge.

- c) Except where other procedure is provided for in the Warehouse Receipts Act of Manitoba C.C.S.M.c.W30 as amended, WWD may upon written notice to the Storer and to any other person known by WWD to claim an interest in the Stored Goods, require the removal of any Stored Goods by the end of the next preceding storage month. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or residence of the party to be notified and shall be deemed to be received two (2) days after the mailing.

12. FORWARDING

- a) WWD is entitled and hereby authorized by the Storer to employ the service of any licensed carrier for the purposes of shipping the Stored Goods. Upon delivery of the Stored Goods to the door of the warehouse in which same are stored for collection by such carrier WWD's liability in respect of the Stored Goods ceases and is at an end unless otherwise agreed to in writing and signed by WWD.

13. DELIVERY REQUIREMENTS

- a) The word "delivery" for purposes of this paragraph shall mean movement of the Stored Goods to the door of the warehouse in which same are stored or crossdocked;
- b) Subject to instructions to the contrary, or as provided herein, Stored Goods shall be delivered to a third party only upon receipt of written instructions from the Storer;
- c) If a negotiable receipt has been issued no Stored Goods covered thereby shall be released by WWD unless the receipt properly endorsed is surrendered for cancellation or for endorsement of partial delivery thereon;
- d) When Stored Goods are ordered out a reasonable time shall be given to WWD to carry out shipping instructions provided that if WWD is unable, due to causes beyond its control, to effect delivery before the end of the calendar month or other agreed to billing period during which the said order was received, the Stored Goods will be subject to charges for the next storage month;
- e) When WWD has given notice in accordance with the provisions of section 11(c) hereof or because of fire, acts of God, war, Queen's and public enemies, seizure under legal process, strikes or lockouts, riots or civil commotion is unable to effect delivery before the end of a calendar month or other agreed to billing period during which such notice was given by WWD the Stored Goods shall be subject to a Storage Charge only for that part of the immediately following time period during which the Stored Goods remain in storage.

14. SCHEDULE OF CHARGES

a) Minimum Charges: There shall be Minimum Charges applicable on storage, unloading, repacking, reloading, forwarding and any other services rendered by or required of WWD with respect to each unit of Stored Goods provided that in no event shall the Minimum Charges per unit be less than as set out on the quotation provided to Storer;

b) Additional Charges: In addition to the Minimum Charges assessed pursuant to clause 14(a) above the Storer shall be responsible for all charges for receiving and handling goods in other than normal business hours, for loading or unloading vehicles, vessels or containers, for communication expenses including courier, postage, telex, teletype, telegram, email, EDI, fax or telephone, for dealing with Stored Goods in part unit form and for any extra service provided by WWD included but not limited to charges for demurrage, special warehouse space, material drayage, repairing, re-labeling, cooperating, sampling, weighing, re-piling, inspecting, collecting, clerical labor, reporting marked weights or numbers of units in connection with the Stored Goods as well as the cost incurred in handling and shipping expenses for outbound shipments and for all other special services rendered by or required of WWD. All Additional Charges shall be due when incurred;

15. DAMAGE DEFAULT

a) WWD shall not be held responsible for any loss or damage to the Stored Goods or for non-delivery or bad delivery thereof unless it is proven that the loss, damage, non-delivery or bad delivery occurred while the Stored Goods were in the possession of and under direct physical control of WWD and that such loss, damage, non-delivery or bad delivery was due to the negligence or voluntary act or omission of WWD;

b) Other than where default is caused by the failure of WWD to exercise care and diligence in regard to the Stored Goods as would a careful and vigilant owner of similar goods in custody of them and in similar circumstances, WWD shall have no liability or responsibility concerning, arising out of or relating to the Stored Goods or any instructions, agreements, notices, information or services related thereto or any other cause whatsoever and the parties hereby agree that this shall include the negligence of WWD, its servants, agents and employees;

c) Perishable Stored Goods, or Stored Goods which are susceptible to damage through temperature changes or other causes incident to general storage, are accepted in general storage, only at Storer's risk for such damages as might result from general storage conditions. In the event that the nature or condition of the Stored Goods creates a condition hazardous to the safekeeping and storage of other Stored Goods in the warehouse or to any property or person, WWD may forthwith remove such Stored Goods from the warehouse. In such event, WWD will give notice to the Storer that such Stored Goods have been removed and the location thereof. The Storer shall thereupon be liable for the expense in connection with such removal, any environmental cleanup, site remediation, all accrued unpaid charges, and the storage and other charges at the new location of such Stored Goods. Upon delivery of such Stored Goods to the door of the WWD warehouse in which same are stored for purposes of such relocation thereof, the responsibility of WWD shall cease in connection therewith;

d) Where Stored Goods are of a perishable nature or by keeping will deteriorate greatly in value or injure other Stored Goods or WWD's property, WWD may give such notice as is reasonable and possible under the circumstances to the Storer requiring him to satisfy all outstanding charges in connection with the Stored Goods and to remove them from the warehouse and on failure of the Storer so to do within the time specified in the notice, WWD may sell the Stored Goods at public or private sale without advertising. The notice referred to above may be given by sending it by registered mail addressed to the person to whom it is to be given at the last known place of business or residence of such person and the notice shall be deemed to have been received on the second day following the mailing. If WWD after a reasonable effort is unable to sell the goods he may dispose of them in the manner he thinks fit and shall incur no liability by reason thereof. WWD shall, from the proceeds of any sale made pursuant to this section, pay all expenses involved in or arising out of the conduct of the sale and all unpaid charges in connection with the Stored Goods and shall deposit the balance of the proceeds of the sale, if any, into an account with any chartered bank in Canada for the benefit of the Storer and upon such deposit of the surplus WWD shall be relieved of all liability for such monies. The Storer shall be liable to WWD for all charges accrued and unpaid on or in connection with the Stored Goods;

e) WWD, other than in the case of negligence or a voluntary act or omission shall not be responsible for demurrage nor for delay in unloading inbound vehicles, vessels or containers, or the loading of outbound vehicles, vessels or containers;

f) Other than in the case of negligence or voluntary act or omission on the part of WWD, WWD shall not be liable for any damage, loss or action for failure to ship out Stored Goods within a reasonable time of the request for shipment and in no event shall a reasonable time be held to be less than 48 business hours.

16. LIABILITY

a) All Stored Goods are at Storer's risk for loss or damage by fire or explosion, or from any other cause whatsoever, including without limiting the generality of the foregoing, flood, winds, storm, earthquake, or other acts of God, war, insurrection, riot, civil or military authority, strikes, picketing, lockout or any other labour trouble, shrinkage in weight, loss in quality due to the inherent or perishable nature of the Stored Goods, or by insufficient cooperation, boxing, crating or packaging, or for wear and tear, or by any cause beyond the control of WWD. No responsibility will be assumed for loss of Stored Goods by leakage or failure to detect same, or for concealed damage. WWD shall not be liable for loss

or damage caused by breakage, theft, pilferage, rodents, vermin, sprinkler leakage or water, unless such damage is caused by failure of WWD to exercise the ordinary care and diligence required of him by law. All Warehousing Charges must be paid on Stored Goods lost or damaged by any of the above causes;

b) WWD shall in no circumstances be liable for any direct or indirect loss or loss of profit as a result of the non-delivery or delay in delivery of Stored Goods or re-routing of any shipment of the Stored Goods for any reason whatsoever;

c) WWD shall not be liable or responsible for any seizure of Stored Goods by the Governments of Canada and Manitoba or any agency or officer thereof for any reason whatsoever;

d) The quality, condition, contents and value of the Stored Goods are not known to WWD except as declared and described by the Storer in writing and delivered to and acknowledged by WWD. WWD's liability shall in no event exceed the minimum value of the loss or damage to the Stored Goods or a sum equivalent to \$50.00 per unit unless the Storer at or prior to the time the Stored Goods are delivered to WWD has declared in writing a value in excess of \$50.00 per unit for each unit of the Stored Goods and has paid or agreed to pay an Additional Charge at the time of delivery of the Stored Goods to WWD sufficient to cover the excess valuation. When the value has changed after such declaration it will be incumbent upon the Storer to declare the new value and to obtain a revision to the Warehousing Charge and to pay such revisions as an Additional Charge. In no event shall the valuation exceed the actual value of the Stored Goods provided that if such valuation does exceed the actual value of the Stored Goods WWD's liability shall in no event exceed the lesser of the valuation or the actual value of the Stored Goods;

f) WWD is not in any case or under any circumstances whether negligent or not, responsible for any loss or damage to Stored Goods unless and until notice in writing of such loss or damage, together with full and detailed particulars thereof, is given to WWD within 48 hours after the Storer becomes aware of such loss or damage or takes delivery of the Stored Goods or any portion thereof, whichever event may first happen, or in the event of notice being given by WWD under section 11 within 48 hours after the period stipulated in such notice.

17. LIEN

a) WWD hereby claims and the Storer hereby grants, a lien on and a right to retain and/or sell all Stored Goods and documents relating thereto until and unless all expenses, fees, costs, liabilities, commission, Minimum, Additional and Special Charges and all other payments and expenses made or incurred by WWD at any time for or on behalf of the Storer have been paid, satisfied, released or provided for to the satisfaction of WWD. Should such lien not be satisfied WWD may dispose of the Stored Goods as provided for in The Warehousemen's Lien Act of Manitoba C.C.S.M.c.W20.

18. INDEMNITY

a) Without prejudice to any of the foregoing conditions the Storer shall indemnify and save harmless WWD from and against all cost, losses, demands, liabilities, responsibilities and causes of action arising out of or in connection with either directly or indirectly the Stored Goods, any other goods of the Storer or instructions of the Storer.

19. SEVERABILITY

a) If any of the within terms, conditions or provisions or the application thereof to any person or circumstance shall at any time or to any extent be invalid or unenforceable at law such term, condition, or provision shall be severed from the remainder hereof which shall be affected thereby, and in each and every circumstance in which reference is made hereto each term, covenant, condition and provision hereof shall be valid and be enforced to the fullest extent permitted by law.

20. LAW

a) This and all agreements related hereto, between WWD and Storer shall be in accordance with Canadian Law, federal as well as provincial, and each agreement shall be interpreted under the exclusive jurisdiction of the courts of the Province of Manitoba.

21. CONTRACT TERMS

a) The terms and conditions herein contained are subject to any contractual arrangements and/or quotations entered into between the Storer and WWD. In the event that there is a conflict between the terms and conditions of the warehouse receipt and terms and conditions of such contract and/or quotation, the terms and conditions of such contract and/or quotation shall prevail.

22. RECEIPT

a) The Storer hereby acknowledges that it has received the document containing the above terms and conditions and that it has read and understands said terms and conditions. The Storer further agrees to be and is hereby bound by the within terms and conditions, unless it returns this document together with a demand for return of its Stored Goods, subject to payment of all charges due to WWD, within twenty (20) days of receipt of this document.

Signed on behalf of the Storer _____

this ____ day of _____ 20____.

Per _____
Authorized Signature

Print: _____