

# COLD STORAGE SOLUTIONS, INC.

## CONTRACT TERMS & CONDITIONS

\*NOTE: This is a legal contract issued pursuant to federal law, and, where applicable and not in conflict, Massachusetts General Laws.

For your protection, review this receipt for accuracy as well as the contract provisions, limitations, terms and conditions.

Throughout this contract, the words "you" and "your" refer to the Depositor ("Bailor"). The words "us", "our" and "company", and "warehouseman" refer to the warehouse operator ("Bailee") issuing this document. All property received by us for storage will be acknowledged by issuance of an "Inbound Receipt for Shipment [# to be stated on document] which describes the property to be stored, handled or worked upon in accordance with the rates and charges provided in our rate quotation or contract, and, unless otherwise provided, such property is subject to the following terms and conditions:

**1. Ownership of Property:** By entering into this contract with us, you certify that you either: (a) own the described property; or (b) Lawfully possess the property; and (c) have the legal right to enter into this contract for storage and ancillary ("value added") Services. If any of the foregoing statements are incorrect and there is litigation concerning bailed property, you agree to pay all Attorney fees and other costs we may reasonably incur or become legally obligated to pay.

**2. Acceptance or Correction of Errors:** Unless you give us written notice: (a) within fifteen (15) days following tender of property to us for storage, handling and any other value added services; or (b) within fifteen (15) days following the mailing of this receipt to You; or (c) fifteen (15) days after we hand this receipt to you, you agree that **all** items, including the contract terms and conditions are correct, complete and accepted by you.

**3. Shipping:** You agree that you will not ship, nor cause others to ship, property to us as a named consignee. Should you, or other(s) do so; you agree to notify the carrier(s) in writing prior to delivery, that we have no beneficial interest, ownership or title to such property. Further, you agree to indemnify and hold us harmless from any and all charges of any kind or nature in connection with such shipped property, including but not limited to undercharges, demurrage or detention charges or any other charges of whatsoever kind or nature in connection with property so shipped. *Additionally*, you also agree that should this not be done, we have the right to refuse such shipment(s) and that you, your successors and assigns, agree to hold us free from liability or responsibility for any loss, damage or injury of any kind or nature related to such property.Â Â

**4. Tender:** All property tendered for storage shall be properly packed, packaged and marked for handling and storage. You agree to furnish to us: (a) at time of tender; or (b) prior to tender, a manifest showing marks, brands, amounts, sizes or other identification of any property to be kept or accounted for separately, as well as the rate or class for storage and value added services desired.Â

**5. Storage Period, Charges and Payment:**

a. All charges for storage are per package or handling unit unless otherwise previously agreed upon.  
b. All charges, whether for storage, handling or other value added services commence upon date of bailment "that is when we accept care or custody of property" regardless of the unloading date or the date we issue our warehouse receipt.

c. All storage charges are on a per-month basis. All storage and related charges are due and payable on the first day of storage for the initial month of receipt and thereafter on the same day of each succeeding calendar month.

d. You agree that you will not deduct the cost of any claim, misunderstanding, dispute, chargeback, penalty, fee, interest cost or any other assessment from the invoice amount(s) for any storage or services provided by us. Â

**6. Change of Address:** Any change in your address from that shown on the Inbound Receipt for Shipment # [as shown on the Inbound Receipt for Shipment] must be reported to us in writing. Our duty is to provide you with written confirmation of this change. Acknowledgment is via your monthly statement. Any failure on your part to provide us with written notice of any change in address means that all communications will be sent to your last known address until written notice of change is received and acknowledged on the following monthly statement.Â

**7. Transfer/Termination of Storage/Removal of Bailed Property:**

(a) All instructions to transfer property are not effective until received and accepted by us. All charges up to the time of transfer, termination or removal are chargeable to the depositor of record. If a transfer involves rehandling of property, we will charge you for this service. When property in storage is transferred from one party to another party through issuance of a new warehouse receipt, a new storage date is established on the date of such transfer.

(b) We reserve the right to move, at our expense, fourteen (14) days following our sending you written notice by certified or registered mail at your last known address, any property in storage from the location listed on this document to any other storage location. However, if you take delivery of the property rather than have it transferred, no storage charges will be made for the current month. We also reserve the right to move property within the warehouse in which it is stored.

(c) We may, after written notice, demand the removal of any property by the end of the next succeeding month [thus, you will always have in excess of one month's notice]. We, as stated above, will send notice to your last known address [see paragraph 6].

(d) If property is not removed before the end of the next succeeding month [our having provided 1+ months notification], we may sell the property at public auction to the highest bidder for cash at a public sale to be held at a time and place selected by us. We will publish at least once a week, for two (2) consecutive weeks, in a newspaper of general circulation, at or near the place of sale, a notice thereof containing a description of the property as described in this document, and the name of the bailor. The proceeds of any sale will first be applied toward payment of lawful charges applicable to the property and to the expense of notice, advertising and sale and of storing, caring for and maintaining said property prior to sale. The balance, if any, shall be paid to the bailor **PROVIDED** that any perishable articles may be sold at public or private sale without such notice, if in our opinion, such action is necessary to prevent deterioration or further deterioration or decay.

(e) If as a result of a quality or condition of or within the property, of which we had no notice at time of deposit, constitutes a Hazard, either:

(1) To other property in storage; or

(2) To our property; or

(3) To other persons, including our employees, we shall have the right to sell the property at public or private sale without advertisement on reasonable notification to bailor.

If we cannot sell the property after making a reasonable effort to do so, we have the right to dispose of it in any lawful manner and assume no liability to the bailor or to others for doing so. We reserve this right, without liability on our part, to remove such property from the storage location shown in this document.

#### **8. Handling:**

(a) Our handling charge covers the ordinary labor involved in receiving property at our warehouse door, transferring property into storage and subsequent return of property to warehouse door.

(b) Unless otherwise agreed, labor and materials (if any) for unloading or loading property from or into rail cars, semi-trailers motor vehicles or other transportation conveyance(s) will be subject to a charge.

(c) Any additional costs or expenses incurred by us for receiving and handling damaged property will be charged to depositor.

(d) Any additional expenses in unloading or loading transportation conveyances not at warehouse door will be charged to the depositor.

(e) Any additional expenses, including but not limited to demurrage charges, costs, penalties, fines or fees caused by or resulting from delays in unloading incoming property or in securing or loading cars and vehicles for outbound shipment, are the depositor's responsibility, unless we fail to exercise reasonable care and due diligence in regard to same.

#### **9. Delivery:**

(a) We will neither deliver nor will we transfer any property except upon receipt of full written instructions signed by you. Notice must come directly from the bailor or another person authorized to act on bailor's behalf, provided we receive written notice authorizing such empowerment ["agency"]. However, property in storage under a non-negotiable warehouse receipt may be transferred or delivered upon receipt of instructions by E-mail or FAX in accordance with prior written authorization, but you agree to hold us harmless for loss or error occasioned by our doing this.

(b) We do not issue negotiable receipts. Any bailed property allegedly covered by such receipt will be released only on order of a court of competent jurisdiction and the posting of security approved by the court as provided by law.

(c) You agree to give us reasonable notice to carry out your instructions. If we are unable to comply because of act(s) of God, public authority, war, public enemy, quarantine, riot, civil commotion or any other reason beyond our control, you agree that the property remaining in storage will continue to be subject to regular storage charges.

**10. Special or Value Added Services:**

(a) Warehouse labor required for any service(s) other than ordinary handling and storage [see paragraph 8(a)] will be charged to you.

(b) Value added or special services requested include but are not limited to: (1) order picking & packing; (2) repacking or repackaging; (3) special stock statements; (4) reporting of marked units, weights, serial numbers, etc. will be subject to a charge.

(c) Dunnage, blocking, bracing, packing or packaging materials or other special supplies, may be provided for additional charge(s).

**11. Liability of Company and Limitation of Damages:**

(a) We are not liable for any loss or damage to bailed property however caused unless such loss or damage result from our failure to exercise such care in regard to bailed property as a reasonably careful man would exercise under like circumstances.

(b) We have no insurance against loss, damage or injury covering bailed property.

(c) You agree that in the event of loss, damage or injury caused by or resulting from our failure to exercise such care as a

Reasonably careful person would exercise under like circumstances [a/k/a "negligence"] our economic liability is limited to fifty cents (50¢) per pound per article which is lost or damaged. PROVIDED, however, that such economic liability may at the time of acceptance of this contract, or, within fifteen (15) days thereafter, be increased on part or all of the described property, in which event we will charge \$ 2.50 per \$100 of value per month of excess value declared in addition to the regular monthly storage charge.

**\*NOTE: This is not insurance!** Notwithstanding any declaration of excess value and payment of the ad valorem charge, our

Obligation to provide 'ordinary care' is not changed. If direct damage insurance is desired, please contact your insurance agent, broker or insurance company representative for insurance coverage

(d) Property which is not in storage or the subject of value added services that are property bailed to us for: (1) transloading; (2) cross-docking; (3) consolidation or distribution; (4) vanning or devanning; or (5) other similar services, our liability is limited to fifty cents (50¢) per pound per article. HOWEVER, bailor has the right to declare excess value subject to payment of \$2.50 per \$100 of value(s) declared ad valorem charge.

**12. Time for Filing Claims/Suits:** If the bailor wishes to make a claim for loss of or damage to bailed property, bailor must do so within: (A) thirty (30) days after delivery; or (B) thirty (30) days after bailor makes demand on us for bailed property and we are unable to surrender it; or (C) thirty (30) days after we mail written notice of loss or damage to the property to bailor at bailor's last known address [see paragraph 6]. If bailor fails to meet the standards outlined above, bailor's claim will be *time barred* meaning of no force or effect!

Suits for loss or damage must be instituted within one (1) year from when we first notify bailor in writing that we have disallowed

Bailor's claim, or any part or parts thereof, as specified in the notice. Where no claim is filed or no suit is instituted according to the

Foregoing provisions, we will have no liability, and such claim will not be paid.

**13. Building Construction Watchman Service Electronic Security:** No warranty or representation is made that any of the cCompany's storage facilities are 'fireproof' or that bailed property cannot be destroyed by fire or other causes or events. We are not required to maintain a watchman, watchman service or electronic security service(s).

**14. Warehouseman's Lien:** We have a lien on all or any portion of the property bailed with us, or on funds from the sale of said property to reimburse us for all lawful charges associated with storage, protection of interest, transportation, labor, coopering [boxing, packaging, etc.] and all other charges and expenses in relation to all, or any part of bailed property. Our lien extends to reasonable charges and expenses for notice and advertisement of sale [see paragraph 7] and for the sale of bailed property where default has been made in satisfying our lien. We may enforce this lien at any time

either by public or private sale of the property,  
With or without court order.

BAILOR AND BAILEE AGREE THAT THIS DOCUMENT CONSTITUTES THE ENTIRE CONTRACT BETWEEN THE PARTIES AND THERE ARE NO OTHER TERMS, CONDITIONS, REPRESENTATIONS, OR AGREEMENTS (ORAL OR WRITTEN) OF EITHER BAILOR OR BAILEE WHICH ARE NOT CONTAINED IN THIS DOCUMENT