

PARTNERS ALLIANCE COLD STORAGE, INC.

CONTRACT TERMS AND CONDITIONS

SECTION 1 • DEFINITIONS

As used in this Warehouse Receipt or Contract and Rate Quotation (collectively and/or alternatively "warehouse receipt") the following terms have the following meanings:

(a) **STORER.** The person, firm, corporation or other entity (or whom the GOODS described herein are stored and to whom this Warehouse Receipt is issued and anyone else claiming an interest in the GOODS.

(b) **COMPANY.** PARTNERS ALLIANCE COLD STORAGE, INC. As used in Sections 9 and 10 hereof COMPANY includes officers, directors, employees and agents of the COMPANY while acting within the scope and course of their employment.

(c) **LOT.** Unit or units of GOODS which are separately identified by the COMPANY.

(d) **ADVANCE.** All sums due or claimed to be due to COMPANY from STORER or 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 STORER or GOODS, necessary for preservation of GOODS or reasonably incurred in their sale pursuant to law.

(e) **GOODS.** The personal property and/or any portion thereof which is described herein and/or which COMPANY has agreed to receive and/or store pursuant to this Warehouse Receipt.

SECTION 2 • TENDER FOR STORAGE

(a) All GOODS for storage shall be delivered at the warehouse properly marked and packed for handling.

(b) STORER shall furnish, at or prior to such 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 COMPANY 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.

(d) COMPANY shall store and deliver GOODS only in the packages in which they are originally received unless otherwise agreed to in writing.

(e) Unless STORER shall have given, at or prior to delivery of the GOODS, written instructions to the contrary, COMPANY, in its discretion, may commingle and store in bulk different lots of fungible GOODS, whether or not owned by the same STORER.

(f) COMPANY shall not be responsible for segregating GOODS by production code date unless specifically agreed to in writing.

SECTION 3 - TERMINATION OF STORAGE

(a) COMPANY may, upon written notice, as required the removal of the GOODS, or any portion thereof, from the warehouse upon the payment of all charges attributable to said GOODS within a stated period, not less than 30 days after such notification. If said GOODS are not so removed, 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 COMPANY, GOODS may be about to deteriorate or decline in value to less than the amount of COMPANY'S lien thereon, or may constitute a hazard to other property or to the warehouse of persons, the GOODS may be removed or disposed of by COMPANY as permitted by law. All charges related to said removal shall be paid by STORER.

SECTION 4 • STORAGE LOCATION

(a) The GOODS shall be stored at COMPANY'S discretion at any one or more buildings at COMPANY'S warehouse complex identified on the front side of this Warehouse Receipt. The identification of any specific location within COMPANY'S warehouse complex does not guarantee that the GOODS shall be stored therein.

(b) Subject to any contrary written instructions given by STORER, COMPANY may, at any time, at its expense, and without notice to STORER, remove any GOODS from any room or area of the warehouse complex to any other room or area thereof.

(c) Upon ten (10) days written notice to the STORER, COMPANY may, at its expense, remove the GOODS to any other warehouse complex operated by COMPANY.

SECTION 5 • STORAGE CHARGES

(a) Storage charges commence upon the date that COMPANY accepts care, custody and control of the GOODS, regardless of unloading date or date warehouse receipt is issued. Charges shall be computed separately for each LOT on one of the following optional bases:

(b) If storage rates are quoted on a 'SPLIT MONTH BASIS' the storage month shall be a calendar month. A full month's storage charge will apply to all GOODS received between the 1st and 15th, inclusive, of a calendar month. One half month's storage charge will apply on all GOODS received between the 16th and last day, inclusive, of a calendar month. A full month's storage charge shall apply on the 1st day of the next calendar month and each month thereafter on all GOODS then remaining in storage.

(c) If storage rates are quoted on an 'ANNIVERSARY BASIS' the storage month shall extend from date of receipt in one calendar month to, but not including, the same date of the next month. If there is no corresponding date in the next month, the storage month shall end on the last day of said next month. A full month's storage charge shall apply on receipt of GOODS and on additional monthly storage charge shall apply to each successive storage month on all GOODS then remaining in storage.

(d) Charge shall be applicable as set forth in the rate quotation or other document issued by COMPANY to STORER and/or in COMPANY'S tariff.

(e) Unless COMPANY specifies otherwise all storage charges are due and payable on the 1st day of storage for the initial month and thereafter on the 1st day of each calendar month.

(f) Rates quoted by weight will, unless otherwise specified, be computed on gross weight and 2,000 pounds shall constitute a ton.

SECTION 6 - HANDLING CHARGES

(a) Unless otherwise specified or elected by COMPANY, handling charges cover only the ordinary labor 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.

(b) Unless otherwise specified, a charge in addition to the regular handling charges will be made for any work performed by COMPANY other than specified in Section (a) at rates which are in effect from time to time, a copy of which rates are available upon request.

(c) When GOODS are ordered out in quantities less than in which received, the COMPANY may make an additional charge for each order or each item of an order.

(d) Delivery by the COMPANY of less than all units of any LOT or of less than all the fungible GOODS stored for STORER shall be made without subsequent sorting except by special arrangement and subject to an additional charge.

SECTION 7 - TRANSFER OF TITLE, DELIVERY

(a) Instructions by STORER to transfer GOODS to the account of another are not effective until delivered to and accepted by COMPANY. Charges will be made for each such transfer and for any refunding of GOODS deemed by COMPANY to be required thereby. COMPANY reserves the right not to deliver or transfer GOODS to or for the account of others except upon receipt of written instructions properly signed by STORER.

(b) STORER may furnish written instructions authorizing COMPANY to accept telephone orders for delivery. In such case, (1) COMPANY may require that each telephone order be confirmed by STORER in writing within 24 hours, and (2) acceptance by COMPANY of any telephone order shall be at the risk of STORER. COMPANY will not be liable for any loss resulting from delivery made pursuant to telephone order, whether or not so authorized, unless COMPANY failed to exercise reasonable care with respect thereto.

(c) COMPANY shall have a reasonable time to make delivery after GOODS are ordered out and shall have a minimum of 10 business days after receipt of a delivery order in which to locate any misplaced GOODS.

(d) If COMPANY has exercised reasonable care and is unable, due to causes beyond its control, to effect delivery before expiration of the current storage period, the GOODS will be subject to storage charges for each succeeding storage period.

(e) All instructions and requests for delivery of GOODS or transfer of title are received subject to satisfaction of all charges, liens and security interests of COMPANY with respect to the GOODS whether for accrued charges or ADVANCES or otherwise.

(f) COMPANY may require, as a condition precedent to delivery, a statement from STORER holding COMPANY harmless from claims of others asserting a superior right to STORER to possession of the GOODS. Nothing herein shall preclude COMPANY from exercising any other remedy available to it under the law to resolve conflicting claims to possession of the GOODS. All costs, including attorney's fees, incurred by COMPANY relating in any way to COMPANY'S activities referred to in SECTION 7 (f) shall be charged to STORER and shall, for purposes of Section 12 below, be considered 'charges present or future with respect to such GOODS' and shall attach as a lien on the GOODS.

SECTION 8 - OTHER SERVICES AND CHARGES

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

Such services may include, but are not limited to, the following: furnishing of special warehouse space or material, repairing, 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 said charge or ADVANCE became due until paid, at the lesser of 1 W% per month or the maximum amount allowed by law.

(c) STORER may, subject to insurance regulations and reasonable limitations, inspect the GOODS when accompanied by an employee of 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. When the costs of protecting and preserving stored property are attributable to more than one STORER, said costs shall be apportioned among an affected STORERS on a pro rata basis to be determined by the COMPANY.

(e) COMPANY shall supply dunnage bracing and lashings where it deems it appropriate on outbound shipments and the cost thereof is chargeable to STORER.

(f) Any additional costs incurred by COMPANY in unloading cars or trucks containing damaged GOODS are chargeable to STORER.

(g) COMPANY shall not be responsible for demurrage charges or delays in loading or unloading unless such demurrage charge or delay was caused solely by COMPANY'S negligence.

(h) A charge in addition to regular storage and handling rates will be made for bonded storage.

(i) COMPANY may assess an additional charge when GOODS, designated for freezer storage, are received at temperatures above 5 degrees Fahrenheit, however COMPANY shall not be responsible for blast freezing GOODS unless STORER specifically requests such services in writing.

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

(k) STORER agrees to pay COMPANY all costs and ADVANCES including reasonable attorney's fees incurred by COMPANY in connection with the storage, handling and/or disposition of the GOODS, including without limitation, such costs, ADVANCES, and/or fees relating to lawsuits (including Bankruptcy proceedings) involving in any way said GOODS and/or STORER'S performance under this agreement. All such costs, ADVANCES, and fees, for purposes of SECTION 12 below, shall constitute 'charges present or future with respect to such GOODS'.

SECTION 9 • LIABILITY AND LIMITATION OF DAMAGES

(a) COMPANY shall not be liable for any loss, damage or destruction to GOODS, however caused, unless such loss, damage or destruction resulting from the COMPANY'S failure to exercise such care in regard to the GOODS as a reasonably careful man would exercise under like circumstances COMPANY is not liable for damages which could not have been avoided by the exercise of such care.

(b) COMPANY and STORER agree that COMPANY'S duty of care referred to in Section 9(a) above does not extend to providing a sprinkler system at the warehouse complex or any portion thereof.

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

(d) IN THE EVENT OF LOSS, DAMAGE OR DESTRUCTION TO GOODS FOR WHICH THE COMPANY IS LEGALLY LIABLE, STORER DECLARES THAT COMPANY'S LIABILITY SHALL BE LIMITED TO THE LESSER OF THE FOLLOWING: (1) THE ACTUAL COST TO STORER OR REPLACING OR REPRODUCING THE LOST, DAMAGED, AND/OR DESTROYED GOODS TOGETHER WITH TRANSPORTATION COSTS TO WAREHOUSE. (2) THE FAIR MARKET VALUE OF THE LOST, DAMAGED, AND/OR DESTROYED GOODS ON THE DATE STORER IS NOTIFIED OF LOSS, DAMAGE AND/OR DESTRUCTION. (3) 50 TIMES THE MONTHLY STORAGE CHARGE APPLICABLE TO SUCH LOST, DAMAGED AND/OR DESTROYED GOODS. (4) \$0.50 PER POUND FOR SAID LOST, DAMAGED, AND/OR DESTROYED GOODS, PROVIDED, HOWEVER THAT WITHIN A REASONABLE TIME AFTER RECEIPT OF THIS WAREHOUSE RECEIPT, STORER MAY, UPON WRITTEN REQUEST INCREASE 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, DAMAGE OR DESTRUCTION TO ANY PORTION OF THE GOODS HAS OCCURRED.

(e) The COMPANY'S liability referred to in Section 9(d) shall be STORER'S exclusive remedy against COMPANY for any claim or cause of action whatsoever relating to loss, damage and/or destruction of GOODS and shall apply to all claims including inventory shortage and mysterious disappearance claims unless STORER proves by affirmative evidence that COMPANY converted the GOODS to its own use. STORER waives any rights to rely upon any presumption of conversion imposed by law. In no event shall STORER be entitled to incidental, special, punitive, or consequential damages.

SECTION 10 - NOTICE OF CLAIM AND FILING OF SUIT

(a) COMPANY shall not be liable for any claim of any type whatsoever for loss and/or destruction of and/or damage to GOODS unless such claim is presented, in writing, within a reasonable time, not exceeding 60 days after STORER teams or, in the exercise of reasonable care, should have learned of such loss, destruction and/or damage.

(b) As a condition precedent to making any claim and/or filing any suit, STORER shall provide 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 WITH RESPECT TO THE GOODS UNLESS A TIMELY WRITTEN CLAIM HAS BEEN MADE AS PROVIDED IN PARAGRAPH (a) OF THIS SECTION AND UNLESS STORER HAS PROVIDED WAREHOUSEMAN WITH A REASONABLE OPPORTUNITY TO INSPECT THE GOODS AS PROVIDED IN PARAGRAPH (b) OF THIS SECTION AND UNLESS SUCH LAWSUIT OR OTHER ACTION IS COMMENCED WITHIN NINE (9) MONTHS AFTER STORER LEARNS OR, IN THE EXERCISE OF REASONABLE CARE SHOULD HAVE LEARNED OF THE LOSS AND/OR DESTRUCTION OF AND/OR DAMAGE TO THE GOODS.

SECTION 11 - INSURANCE
GOODS ARE NOT INSURED BY COMPANY AND THE STORAGE RATES DO NOT INCLUDE
INSURANCE ON THE GOODS UNLESS COMPANY HAS AGREED, IN WRITING, TO OBTAIN SUCH
INSURANCE FOR THE BENEFIT OF STORER.

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COMPANY shall have a lien against the GOODS and on the proceeds thereof for all charges for storage, handling, transportation (including demurrage and terminal charges), insurance, labor and other charges present or future with respect to the GOODS, ADVANCES or loans by COMPANY in relation to the GOODS and for expenses necessary for preservation of the GOODS or reasonably incurred in their sale pursuant to law. COMPANY further claims a lien on the GOODS for all such charges, ADVANCES and expenses in respect to any other property stored by STORER in any warehouse owned or operated by COMPANY or its subsidiaries wherever located and whenever deposited and without regard to whether or not said other property is still in storage.

SECTION 13 - WAIVER - SEVERABILITY

(a) COMPANY'S failure to insist upon strict compliance with any provision of this Warehouse 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 this Warehouse Receipt.

(b) In the event any section of this Warehouse 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.

SECTION 14 - AUTHORITY

STORER 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 a lien or security interest and has full power and authority to enter into the agreement incorporated into this Warehouse Receipt. STORER agrees to notify all parties acquiring any interest in the GOODS of the terms and conditions of this Warehouse Receipt 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 this Warehouse Receipt.

SECTION 15-NOTICES

All written notices provided herein may be transmitted by any commercially reasonable means at notification and directed to COMPANY at the address on the front hereof and to STORER as its last known address. STORER is presumed to have knowledge of the contents of all notices transmitted in accordance with this Section within five days of transmittal.

SECTION 16 • ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between 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 COMPANY and STORER.