

## STANDARD TERMS AND CONDITIONS

Unless otherwise agreed upon and confirmed in writing by Mathers Freight Management Inc. the following Standard Terms and Conditions shall apply for all goods received, stored, handled, released and delivered by Mathers Freight Management Inc. and or any of its related companies.

### I. Warehousing of Goods

#### **A. TENDER FOR STORAGE**

- (1) All goods for storage shall be delivered to Mathers Freight Management Inc. cargo facilities (hereafter called "Warehouse") properly marked and packaged for storage and handling.
- (2) The person or entity for whose account the goods are stored (hereafter called "Storer") shall furnish at or prior to such delivery a bill of lading, manifest, or similar document describing the goods to be stored. Such document will clearly show any marks, brands or sizes and the class of storage desired. If a manifest is not provided by the time of delivery, the goods may be stored in bulk or assorted lots, undercover or not undercover, heated or not heated at the discretion of Mathers Freight Management Inc. or any of its related companies (hereafter collectively called "MFMI") and will be subject to charges as provided in MFMI's Rate Proposal, Quote or Tariff as applicable.
- (3) Storer certifies that any Hazardous Materials as defined by current TDG and IMO regulations are properly described and labeled, and warrants that such materials are packaged in a proper condition for safe storage.
- (4) MFMI shall issue a warehouse receipt, and Storer shall be solely responsible for verifying the amount and type of goods described in the warehouse receipt. The warehouse receipt shall be conclusive proof of the amount of goods delivered to MFMI for storage.
- (5) The word "lot" as used herein means the unit or units of goods for which a separate account is kept by MFMI. Delivery of all or any units of a lot shall result in storage without subsequent sorting except by special arrangement and subject to a charge.
- (6) MFMI agrees to store and deliver goods only in the packages in which they are originally received, unless Storer makes separate arrangements, as provided herein.

#### **B. LOADING AND UNLOADING**

- (1) In loading, unloading and sorting goods, MFMI acts as agent for Storer and will not be responsible for errors or shortages because goods are billed "Shippers Load and Count." Storer may furnish a checker to verify load and count; otherwise MFMI's records of load and count shall be conclusive and MFMI shall have no liability for discrepancies.
- (2) Dunnage and fastenings supplied by MFMI and used in loading containers, trucks or cars are chargeable to the Storer.
- (3) Any additional costs incurred by MFMI in unloading by reason of damaged goods are chargeable to the Storer.
- (4) Transportation companies arranged by the Storer shall provide a minimum of 24 hours advance notice of arrival to MFMI and receive an appointment time from MFMI for unloading or loading.
- (5) Unless MFMI has failed to exercise reasonable care, MFMI shall not be responsible for demurrage or detention for delays in loading or unloading, or for delays in obtaining, containers, trailers, trucks or other equipment for inbound and or outbound shipment.

#### **C. TEMPORARY HOLDING**

Goods may not be left in containers, trailers, trucks, or other vehicles or on the Warehouse platform without the express consent of MFMI, and in any such case will remain where placed at Storer's risk of loss or damage.

#### **D. RELEASE OUT OF WAREHOUSE**

- (1) No goods shall be released or transferred except upon receipt by MFMI of complete written instructions from the Storer.
- (2) When goods are ordered out of the Warehouse, storage charges shall be paid through the end of the chargeable period. MFMI shall be given a reasonable time to effect the delivery instructions.
- (3) If MFMI has been unable, due to causes beyond its control, to release the goods before the expiration of the current storage period, the goods will be subject to storage charges for the next succeeding storage period.
- (4) Release by MFMI of less than all of any lot owned by any Storer shall be made without subsequent sorting except by special arrangement and subject to an additional charge.

#### **E. TRANSFER OF TITLE: RELEASE**

- (1) Instructions by the Storer to transfer goods to the account of another person are not effective until delivered to and accepted by MFMI in writing. Charges will be made for each such transfer and for any rehandling of goods required.
- (2) Telephone instructions will only be accepted for goods subject to a *non*-negotiable warehouse receipt under the following conditions: (a) MFMI will require that each telephone order be confirmed by the Storer in writing within 12 hours; and, (b) acceptance by MFMI of any telephone order shall be at the risk of the Storer, unless MFMI failed to exercise reasonable due care.
- (3) MFMI shall have a reasonable time of not less than fifteen days to effect the release after goods are ordered out, regardless of the expiration date of the current storage period. In addition, MFMI shall have a minimum of fifteen (15) business days after receipt of a release order in which to locate any misplaced goods. If MFMI is unable, due to causes beyond its control, to effect the release before expiration of the current storage period, the goods will be subject to storage charges for any succeeding storage month or months during which they remain in storage.

- (4) All instructions and requests for the release of goods or transfers of title are received subject to satisfaction of all charges, liens, and any security interest of MFMI with respect to the goods, whether for accrued charges or advances or otherwise.
- (5) MFMI may require, as a condition precedent to the release, a statement from Storer holding MFMI harmless from claims of others with a superior right to Storer to possession of the goods. Storer will indemnify MFMI and hold MFMI harmless from all costs, including attorneys' fees or any action by way of interpleader or otherwise rendered necessary by a dispute between Storer and any other person.

**F. TRANSFER OF TITLE TO GOODS WITHIN WAREHOUSE**

- (1) Part lot transfers within or among MFMI Warehouses, goods transferred within or among MFMI Warehouses from one party to another, or which require physical separation of the goods in the lot, are subject to charges as set forth in MFMI's Rate Proposal, Quote or Tariff for separation and shall be at the applicable handling rate.
- (2) MFMI may require payment of all charges by transferor to MFMI before transferring goods within or among its Warehouses.

**II. Schedule of Charges**

**A. STANDARD HANDLING AND STORAGE**

- (1) All handling and storage charges are set forth in MFMI's applicable Rate Proposal, Quote or Tariff. Any customized programs in effect for specific Storer will be governed by separate written agreements entered into between MFMI and the Storer.
- (2) Whenever provision is made herein for a charge or charges, such charge or charges will conform to MFMI's Rate Proposal, Quote or Tariff in effect at the time the charge accrues or the service is performed, except that no increase in charges within the direct control of MFMI will be made on goods that are in storage without thirty (30) days written notice provided to the Storer of record or the last known holder of a negotiable warehouse receipt. MFMI's Rate Proposal, Quote or Tariff is incorporated into this agreement as is fully set forth herein.

**B. STORAGE PERIOD**

Rates for storage are set forth in MFMI's Rate Proposal, Quote or Tariff and are computed on the following basis: (a) shipments into storage received from the first day of any month through the 15th day of that month will be charged a full month's storage; and (b) shipments into storage received from the 16th day of any month through the last day of that month will be charged one-half month's storage.

**D. HANDLING CHARGES**

- (1) Handling charges cover the ordinary labor and duties incidental to receiving goods at the Warehouse door and or gate, stowing and releasing at the Warehouse door and or gate but do not include loading and unloading of cars, vehicles and vessels.
- (2) A charge in addition to the regular handling charges will be made for any work done by MFMI outside its posted regular warehouse hours in the event: (a) goods are received or released at the request of the Storer, before or after such hours, or (b) goods are not delivered to the warehouse in time to be unloaded and placed in storage during such hours, or (c) goods are ordered from storage and not called for in time to permit release during such hours.

**E. MINIMUM CHARGES**

Minimum charges as set forth in MFMI's Rate Proposal, Quote or Tariff will be assessed for storage, handling and other services.

**F. CHARGES FOR EXTRA SERVICES**

- (1) Extra services rendered in the interest of the Storer, such as the furnishing of special warehouse space or material, repairing, cooping, sampling, weighing, restacking, inspecting, physical warehouse checking, compiling stock statements, making collections, reporting marked weights or numbers, handling expense invoices, handling shipments, etc., are chargeable to the Storer.
- (2) Inspection costs. Any Storer and any holder of a negotiable warehouse receipt may, subject to insurance regulations and reasonable limitations, inspect the goods owned by him when accompanied by an MFMI employee whose time will be charged to such Storer or holder.
- (3) Within-warehouse transfer costs. If goods are transferred within MFMI's Warehouses from the account of one party to another and charges relating to such goods have not been paid in full on the date of transfer by the transferor, the lien for all such charges shall attach to all goods retained in the Warehouse by the transferor as well as to the goods transferred to the transferee. MFMI may require a transferee to acknowledge such lien rights prior to transferring such goods to the transferee in the Warehouse.

**III. Warehouse Liability**

**A. LIABILITY, CLAIMS, LIMITATION OF ACTIONS, AND LIMITATION OF LIABILITY**

- (1) MFMI assumes no responsibility for concealed damage, leakage, variation in weights, or losses in weight by reason of defective or insufficient containers, whether occurring while goods are in storage or are being handled, nor shall it be responsible for detecting or remedying same.

- (2) Perishable goods or goods which are not susceptible to damage through temperature changes or other causes incident to general storage are accepted in general storage at Storer's risk for such damage as might result from general storage conditions.
- (3) All commodities of a perishable nature are stored at Storer's risk and shall be inspected at intervals each week by the Storer or its agent. MFMI assumes no responsibility for perishable goods and reserves the right to refuse delivery of such goods at the time of delivery.
- (4) By delivering goods to the Warehouse, or delivering instructions to MFMI regarding packaging of goods in the Warehouse, the Storer thereby warrants and represents to MFMI that such goods are not misrepresented or mislabeled. If MFMI in good faith accepts such goods and releases them and incurs any damage, loss, expense or liability arising from such acceptance or release under any law, order or regulation, Storer shall defend and indemnify MFMI against the same, including attorneys' fees.
- (5) MFMI will be liable for loss of or injury to the goods only to the extent such loss or injury is caused by its failure to exercise reasonable care in regard to storage and handling of the goods. MFMI shall not be liable, however, for damages which could not have been avoided by the exercise of such care.
- (6) In the event of loss of, damage to, shortage of or destruction of stored goods for which MFMI may be liable, damages are limited to the **LESSER OF THE FOLLOWING**: THE ACTUAL COST TO STORER OF REPLACING OR REPRODUCING THE GOODS, PLUS THE COST OF TRANSPORTATION TO MFMI'S WAREHOUSE, LESS SALVAGE, IF APPLICABLE; OR TWO DOLLARS (\$2.00) PER POUND FOR EACH POUND OF GOODS ACTUALLY DAMAGED, LOST, DESTROYED, OR SHORT; OR. STORER AGREES THAT THE LIMITED REMEDY SET FORTH ABOVE SHALL BE ITS EXCLUSIVE REMEDY AGAINST MFMI FOR ANY CLAIM OR CAUSE OR ACTION RELATING TO LOSS OF OR DAMAGE TO GOODS, WITHOUT LIMITATION, AND IN NO EVENT SHALL THE STORER BE ENTITLED TO INCIDENTAL OR CONSEQUENTIAL DAMAGES. This limitation shall apply to all claims unless Storer actually establishes that MFMI has converted the goods to its own use. Storer hereby agrees to waive and does waive its right to rely upon any presumption of such conversion as may be imposed by law.
- (7) Upon written request, Storer may arrange to increase MFMI's liability on part or all of the goods hereunder for an additional charge based upon such increased valuation. Such increased liability is not insurance and shall be granted at the sole discretion of MFMI. MFMI will be under no obligation to grant such a request.
- (8) MFMI shall not be liable to Storer in any event unless within sixty (60) days of Storer becoming aware of loss of, damage to, destruction of, or shortage of goods, Storer makes written claim to MFMI. No action may be instituted against MFMI more than one hundred and twenty (120) days after Storer becomes aware of loss of, destruction of, shortage of, or damage to, the goods which are the subject of such action. Storer shall be conclusively deemed to be aware of the contents of any communication from MFMI (5) five days following notice given by MFMI to Storer as provided herein.
- (9) Unless humidity and or temperature controlled storage has been specifically agreed to in writing, MFMI shall not be liable for any damage caused, by excess or insufficient humidity or temperature.
- (10) Unless the contrary has been specifically agreed to in writing, Storer agrees that MFMI's duty of reasonable care does not extend to the maintenance or operation of any fire sprinkler protection or fire, smoke, or intruder alarms.
- (11) As a condition precedent to any claim or suit, against or involving MFMI, Storer shall permit MFMI to inspect any and all goods which are the basis of any such claim or suit.

#### **B. GOODS NOT INSURED**

- (1) MFMI does not provide insurance for stored goods and the storage rates do not include insurance coverage other than MFMI's own Warehouseman's Liability coverage subject to the limitations of liability described in III A (6), above. **MFMI will not obtain insurance on the goods stored for benefit of the Storer** unless MFMI has agreed, in writing, to obtain such insurance for the benefit of Storer.

### IV. Remedies

#### **A. PAYMENT TERMS AND COLLECTION COSTS**

- (1) Unless otherwise mutually agree upon in advance in writing; ACCOUNTS ARE DUE AND PAYABLE ON THE DATE OF INVOICE. Upon the Storer's failure to pay any invoice within 15 days of the invoice's date, all charges relating to all lots of the customer's goods stored at any time in MFMI's Warehouse shall become immediately due and payable.
- (2) All charges made by MFMI and all advancements made by MFMI on behalf of Storer constitute commercial accounts. All disbursements made by MFMI on behalf of the Storer are due and payable immediately.
- (3) If MFMI employs an attorney to pursue enforcement or foreclosure of a lien or security interest or any suit or action to collect any charges due hereunder, MFMI shall be entitled to all attorneys' fees and costs incurred by it in connection with the same.
- (4) Storer agrees that it shall be responsible for all shipping, handling, and other charges assessed by carriers or other third parties in connection with Storer's shipments. Storer further agrees to defend, indemnify and hold MFMI harmless from and against all liability, costs, and expenses, including attorneys' fees arising out of claims made by such carriers or third parties for such charges.
- (5) In the event of damage or threatened damage to stored goods, Storer shall pay the reasonable and necessary costs of protecting, preserving or removing the goods. Such costs may be included in Storer's claim in the event that such threat of damage or damage is caused by MFMI's failure to exercise reasonable care.

#### **B. REMOVAL OF GOODS**

**Mathers Freight Management Inc.**

- (1) Subject to any contrary instructions given by the Storer, MFMI may at any time, and at its expense, remove any goods from any room or area of the warehouse to any other room or area thereof. Upon 10 days written notice to the Storer and the last known holder of an applicable negotiable warehouse receipt, MFMI may, at its expense, remove the goods to any other of its other warehouses.
- (2) MFMI may, upon written notice to the Storer and any other person known to claim an interest in the goods, require the removal of any goods from the warehouse upon the payment of all charges thereon within a stated period not less than 30 days after such notification, and if the goods are not so removed, MFMI may sell them as provided by law.
- (3) MFMI may enforce any other rights under law entitling it to sell any goods about to deteriorate or to decline in value to less than the amount of MFMI's lien thereon or immediately remove goods which are a hazard to the warehouse or other property or any person. In the event of such sale or removal before all charges are paid, Storer agrees to provide MFMI with additional security acceptable to MFMI, including personal guarantees and or financing agreements to assure payment of all charges and costs due MFMI.

**C. LIENS**

- (1) Warehouseman's liens. All liens attaching to the goods stored in favor of MFMI under applicable law, whether as security for advances made, or for storage, service or materials furnished by MFMI, are hereby agreed to by Storer and specifically reserved by MFMI.
- (2) MFMI shall be entitled to a lien on all goods held in the Warehouse under a Storer's account, and such lien shall be in the amount of all unpaid storage, handling, and other charges in relation to all lots of the Storer's goods stored at any time in MFMI's Warehouses, including all expenses reasonably necessary for preservation of the goods or reasonably incurred by MFMI in exercising its lien rights. The precise amount of such charges may be determined by contacting MFMI's Controller. If goods are transferred out of the Warehouse, the lien for any unpaid charges relating to such goods shall be enforceable against any goods remaining in the Warehouse under Storer's account. Storer thereby grants a security interest to MFMI in the inventory of product and proceeds derived therefrom, and for all charges and expenses described above, whether incurred before or after release, and customer agrees to execute and deliver such documents as may be required to perfect the security interest.

**D. WAIVER AND SEVERABILITY**

- (1) MFMI's failure to insist upon strict compliance with any provision hereof shall not constitute a waiver or estoppel of its right to later demand strict compliance.
- (2) If any provision hereof is declared invalid, illegal, and/or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be in any way affected or impaired thereby.

**E. NOTICES**

- (1) All written notices provided herein may be transmitted to Storer by mail or any commercially reasonable means of written or electronic communication directed to the address or telefacsimile number provided to MFMI by Storer, or to the last know address, telefacsimile number or email address of any other entity known to MFMI to claim an interest in the goods.

**F. APPLICABLE LAW**

- (1) These terms and conditions of this agreement shall be governed by, and construed and enforced in accordance with, the laws of the Province of Nova Scotia, Canada, and venue of any action to enforce this agreement shall be in Halifax, Nova Scotia, Canada.

**G. WARRANT OF AUTHORITY**

- (1) 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 for the lawful owner of the goods and/or holder of any lien or security interest and has full power and authority to enter into the agreement incorporated in 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.

**H. ENTIRE AGREEMENT**

These terms and conditions, together with MFMI's Rate Proposal, Quote or Tariff in effect at the time charges accrue, shall constitute the entire agreement between MFMI and Storer, no oral promises or representations contained herein shall have any force or effect, unless reduced to writing and based upon the mutual agreement of authorized agents of the parties