

## WAREHOUSING STANDARD TRADING CONDITIONS

### **1. Definitions** “Warehouseman” means Crossdock Systems.

“Conditions” means the individual terms and conditions within these Standard Trading Conditions.

“Customer” means the owner or agent of the owner that retains the services of the Warehouseman to store goods at its Warehouse.

“Goods” means the commodities entrusted into the Warehouseman’s care for storage.

“Instructions” means a statement of the Shipper’s specific requirements. “Owner” means the owner of the Goods for whom the services are provided. “Parties” means the Warehouseman and the Customer unless otherwise specified.

“Services” means all storage and accessory services provided by the Warehouseman under these Conditions.

### **2. Warehousing Services**

The Customer agrees to retain the services of the Warehouseman and store goods at the Warehouse of the Warehouseman located in Mississauga, Ontario or other storage facility selected by the Warehouseman in accordance with the terms and conditions set forth in these Conditions. These services shall include the following:

- a) The receipt and unloading of goods at the Warehouse;
- b) The storage of goods at the Warehouse; and
- c) The preparation of out-bound shipments of goods for transport by motor carriage or railway carriage.

The warehousing services are set forth in greater detail in Schedule A, which is attached hereto and made a part of these Conditions by reference.

### **3. Rates & Charges**

The Customer agrees to pay the rates of the Warehouseman as compensation for the provision of its services to the Customer as well as charges for accessorial services. The rates and charges for the Warehouseman’s services shall be as set forth in Schedule B, which is attached hereto and made a part of these Conditions by reference. All rates and charges are quoted in Canadian dollars and are payable in Canadian Dollars unless otherwise specified on separate contract between Crossdock Systems and the Customer.

#### **4. Commencement and Termination of Services**

The Conditions shall apply as soon as goods are delivered in the care of the Warehouseman. The Warehouseman's responsibilities shall end when stored goods are released in the care of a carrier.

#### **5. Payment Terms**

Payment of rates and charges shall be due and payable net thirty (30) days of receipt of invoice. Payment terms shall be calculated from time of invoice receipt by Customer to time of payment issued via electronic funds transfer. Interest at a rate of 1.5% per month will be charged to the Customer in respect of any late payment.

#### **6. Insurance**

The Warehouseman shall not insure any goods stored by the Customer. The Customer shall insure the stored goods. The parties agree that the rates do not include insurance on the goods.

#### **7. Liability for Goods Stored**

The Warehouseman shall not be liable for any loss or destruction of or damages to goods, however caused, unless such loss, destruction or damage resulted from the Warehouseman's failure to exercise such care in regard to the goods as a reasonably careful person would exercise under like circumstances. The Warehouseman shall not be liable for any loss or destruction of or damages to goods that could not have been avoided by the exercise of such care.

The Customer and the Warehouseman agree that the Warehouseman's duty of care under this Agreement does not extend to providing a sprinkler system at the Warehouse or any portion thereof. Unless specifically agreed to in writing, the Warehouseman shall not be required to store goods in a humidity controlled environment or be responsible for tempering goods.

In the event of loss or destruction of or damage to goods for which the Warehouseman is legally liable, the Customer declares that the Warehouseman's liability shall be limited to the lesser of the following: (i) the actual cost to Customer of replacing or reproducing the lost, damaged, and destroyed goods together with transportation costs to warehouse; (ii) the fair market value of the lost, damaged, and destroyed goods on the date the Warehouseman is notified of such loss, damage and destruction; (iii) 50 times the monthly storage charge applicable to such lost, damaged, and destroyed goods; (iv) \$0.25

per pound for said lost, damaged, and destroyed goods; provided, however, that within a reasonable time after receipt of the goods, the Customer may request, in writing, an increase in the Warehouseman's liability on part or all of the goods in which case, provided that the Warehouseman agrees to such an increase in liability, 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.

The Warehouseman's liability for goods stored as described in these Conditions shall be the Customer's exclusive remedy for any claim or cause of action whatsoever relating to loss or destruction of or damage to goods. The Customer waives any right to rely upon any presumption of conversion imposed by law. The Warehouseman shall not be liable for any incidental, special, punitive, or consequential damages of any type or description.

#### **8. Notice of Claim and Filing of Suit**

The Warehouseman 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 (i) thirty (30) days after delivery of the goods by the Warehouseman or (ii) thirty (30) days after the Customer learned or, in the exercise of reasonable care, should have learned of such loss or destruction or damage to the goods or the basis for any other claim against the Warehouseman.

As a condition precedent to filing any lawsuit or other action, the Customer shall provide the Warehouseman with a reasonable opportunity to inspect the goods which are the basis of the Customer's claim. No lawsuit or other action may be maintained by the Customer or any other party against the Warehouseman unless a timely written claim has been made as indicated hereinabove and unless the Customer has provided the Warehouseman with a reasonable opportunity to inspect the goods as indicated hereinabove and unless such lawsuit or other action is commenced within the earlier of (i) six (6) months after delivery of the goods by the Warehouseman or (ii) six (6) months after the Customer learned or, in the exercise of reasonable care, should have learned of the loss or destruction of the damage to the goods or the basis for any other claim against the Warehouseman. Any lawsuit or other action against the Warehouseman must be brought in the Province where the Warehouse is located and will be governed by the laws of such Province.

#### **9. Cargo**

Cargo shipped by the Customer to the Warehouse will be of the kinds and quantities as mutually agreed upon. As used herein, cargo means all goods of the Customer delivered by the Customer to the Warehouse. Specific shipping and delivery dates shall be arranged and agreed on by the parties. The Warehouseman shall sign the inbound bill of

lading upon receipt of the goods and shall provide a copy to the delivering driver each time a shipment of goods is delivered to the Warehouse.

#### **10. Right of the Parties in the Goods**

The Warehouseman shall take reasonable means to store, situate and maintain the goods in a manner so as to be readily and clearly identifiable as the Customer's goods and physically segregate the goods from Warehouseman's property and the property of others. The Warehouseman shall take reasonable steps to keep its property and other's property from being commingled with the goods. Subject to the Repair and Storage Lien Act (Ontario), the Warehouseman shall have a storer's lien against the goods and on the proceeds thereof for all charges for storage, handling, transportation (including detention, demurrage and terminal charges), insurance, labour and other charges present or future with respect to the goods, advances or loans by the Warehouseman in relation to the goods and for expenses necessary for the preservation of the goods or reasonably incurred in their sale pursuant to law. The Warehouseman further claims a general storer's lien on the goods for all other such charges, advances and expenses due to the Warehouseman or any affiliated or related entity wherever located. The Warehouseman reserves the right to require advance payment of all charges prior to releasing goods regardless of any otherwise applicable payment terms. The Warehouseman may assign its right to its storer's lien over the goods. The Warehouseman may create a security interest under the Personal Property Security Act in respect to the goods.

#### **11. Force Majeure**

Neither party shall be in breach of these Conditions if there is any total or partial failure of performance by it of its duties and obligations under these Conditions occasioned by any act of God, act of government or state, war, act of terrorism, insurrection, embargo, flood, severe weather, lightning and any other reason beyond the control of either party. If either party is unable to perform its duties and obligations under these Conditions as a direct result of the effect of one of those reasons that party shall give immediately written notice to the other of the inability stating the reason in question. The provision of Services shall be suspended during the period (and only during the period) in which the reason continues. Forthwith upon the reason ceasing to exist, the party relying upon it shall give written advice to the other of this fact. If the reason continues for a period of more than 30 days and substantially affects the commercial basis of the provision of Services under these Conditions, the party not claiming relief under this clause shall have the right to terminate the provision of Services forthwith on giving written notice to the other party. Force Majeure shall not apply to payment obligations.

#### **12. Bills of Lading**

Each shipment prepared by the Warehouseman shall be accompanied by a bill of lading. Each bill of lading shall specify (a) the shipper and its invoice address, (b) the kind and

quantity of goods being shipped, (c) the name and address of the consignee, (d) the point of origin, (e) the point of destination, and (f) other pertinent instructions and information. Execution by the Carrier of a bill of lading shall be prima facie evidence that the shipment was in proper quantity, and was in good order and condition at the time of delivery to the Carrier, unless and only to the extent that exceptions are noted thereon at such time by Carrier's driver.

### **13. Notices**

Any notice or demand to be served under these Conditions shall be made in writing and delivered by personal service, an overnight delivery service or by facsimile and shall be served during Business Hours to the following address or facsimile number:

#### **CROSSDOCK SYSTEMS INC.**

361 Ambassador Drive  
Mississauga, Ontario  
L5T 2J3

#### **CUSTOMER:**

A notice may also be sent by registered mail with postage prepaid and return receipt requested. For the avoidance of doubt, notices sent by e-mail shall not bind the parties.

Notice shall be deemed made (i) on the date of personal delivery; (ii) on the date sent via facsimile; or (iii) when received by the addressee if delivered by registered mail.

### **14. Waiver**

No waiver by either party shall be effective unless it is made in writing and received by the other party in accordance with these Conditions. No failure or delay on the part of either party here to exercise any right or remedy under this contract shall be construed as a waiver thereof, nor shall any single or partial exercise of any right or remedy be similarly construed as such waiver.

### **15. Severability**

The invalidity or unenforceability for any reason of any provision of these Conditions shall not prejudice or affect the validity or enforceability of its other provisions. The parties shall use all reasonable endeavours to replace the invalid or unenforceable provision by a valid and enforceable substitute provision, the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

### **16. Governing Laws**

These Conditions shall be governed by and construed in all respects in accordance with the law of Ontario and the laws of Canada where applicable, and the parties hereby submit to the exclusive jurisdiction of the Ontario Courts.

## **SCHEDULE A**

### **SERVICES**

#### **1. Inbound shipments and storage**

The Customer shall expedite its in-bound shipments of goods to the Warehouse with appropriate marking and packaging accompanied by a manifest showing marks, brands or sizes to be kept and accounted for separately and the class of storage desired.

The Customer will provide the Warehouseman with accurate and complete information concerning the goods sufficient to allow the Warehouseman to comply with all laws and regulations concerning the storage, handling and transportation of the goods and will indemnify and hold the warehouseman harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) as a result of the Customer's failure to do so.

The Customer agrees that all goods shipped to the Warehouseman shall not identify the Warehouseman as the consignee on the bill of lading. If contrary to this requirement, goods are shipped to the Warehouseman as a consignee, the Customer shall indemnify and hold the Warehouseman harmless from all claims for transportation, storage, handling and other charges relating to such goods.

#### **2. Outbound shipments**

The Customer shall notify in advance the Warehouseman for the preparation of any out-bound movement of goods.

The Warehouseman will prepare outbound shipments and prepare the bill of lading in accordance with the instructions of the Customer. The Customer will provide the Warehouseman with accurate and complete information concerning the goods sufficient to allow the Warehouseman to comply with all laws and regulations concerning the packing of the goods and preparation of the bill of lading and will indemnify and hold the warehouseman harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) as a result of the Customer's failure to do so.

The Customer agrees that all goods shipped from the Warehouse shall not identify the Warehouseman as the shipper on the bill of lading. If contrary to this requirement, goods are shipped and identify the Warehouseman as a shipper, the Customer shall indemnify

and hold the Warehouseman harmless from all claims for transportation, storage, handling and other charges relating to such goods.

3. **Records**

The Warehouseman agrees to maintain full, complete, and accurate records and documents of shipments moved (including signed Bills of Lading and Proof of Deliveries) under these Conditions for verifying deliveries. These records shall be provided to Customer on demand.

4. **Vehicle Detention/Demurrage**

The Customer and Warehouseman agree that the Warehouseman shall not be responsible for any detention or demurrage charges whatsoever. The Customer shall assume sole responsibility for any detention or demurrage charges.

**SCHEDULE B**

**RATES & CHARGES**

The Warehouseman's rates and charges are as follows:

<b>HANDLING CHARGES</b> Calculated by pallet position/space Maximum cube not to exceed 104 and/or weight not to exceed 2000lbs	Rate
Minimum Charge	\$ 15.00
Every additional pallet/piece of similar size/weight	\$ 6.00/pc
Maximum Flat Rate Charge per Truckload or weight exceeding 36000lbs	\$ 150.00
Transfer-Trailer to Trailer	\$ 100.00
40FCL-floor loaded	\$ 400.00
LCL-floor loaded	\$ 10.00/foot

<b>SHORT TERM STORAGE</b>	
Calculated per linear foot per day (day of arrival is free)	\$ 1.00/ft/day