



TERMS AND CONDITIONS

THESE TERMS AND CONDITIONS ARE INCORPORATED BY REFERENCE IN ONE OR MORE DOCUMENTS PROVIDED BY CODA LOGISTICS AND DISTRIBUTION LLC ("CODA"), INCLUDING WAREHOUSE RECEIPTS AND/OR OVER SHORT AND DAMAGE REPORTS AND/OR INVOICES.

CUSTOMER MUST REVIEW THESE TERMS AND CONDITIONS. BY DOING BUSINESS WITH CODA, CUSTOMER AGREES TO AND ACCEPTS THESE TERMS AND CONDITIONS, WHICH MAY BE FOUND AT WWW.CODA-USA.COM AT THE TAB TITLED "TERMS AND CONDITIONS."

CUSTOMER ACKNOWLEDGES THAT IT HAS BEEN GIVEN PROPER NOTICE THAT THESE TERMS AND CONDITIONS ARE FULLY BINDING AND ARE PART OF THE AGREEMENT BETWEEN CODA AND CUSTOMER AND ARE FULLY ENFORCEABLE IN A COURT OF LAW. IF CUSTOMER HAS ANY QUESTIONS ABOUT THESE TERMS AND CONDITIONS, IT MUST RAISE THEM PRIOR TO COMMENCING BUSINESS WITH CODA.

DEFINITIONS:

- ◆ "CODA" or "Company" means CODA Logistics and Distribution LLC.
- ◆ "Customer" means the cargo owner and any party which has engaged the services of CODA.
- ◆ "Force Majeure Event" means any circumstance beyond the reasonable control of Company, to include but not be limited to, pandemics, government shut downs, major disruptions in transportation not caused by the Company, natural disasters, strikes or lockouts or stoppage/restraint of labor from whatever cause, equipment failure not attributable to the fault of Company (to include electrical power, heat, light, air conditioning or communications equipment), civil unrest, acts of war, terrorism, or armed conflicts, acts of public authorities, executives, or federal or state agencies.
- ◆ "Goods" shall mean the cargo tendered by or on behalf of the Customer for services to be performed by Company, and shall include any and all packaging and/or containers not supplied by or on behalf of Company.
- ◆ "Ts&Cs" shall mean these Terms and Conditions.

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(1) ACCEPTANCE

Customer agrees that upon engaging CODA for any service or services, it has had the opportunity and has in fact read these Ts&Cs in documents provided by CODA to Customer. The act of tendering Goods for storage or other services, including but not limited to warehousing, import, export, outturn or transport by CODA, shall further reaffirm acceptance by the Customer of these Ts&Cs.

(2) SHIPPING TO CODA

Customer agrees not to ship Goods to CODA as the named consignee. If, in violation of these Ts&Cs Goods are shipped to CODA as named consignee, Customer agrees to notify carrier, with copy of such notice to CODA, that CODA is a warehouse and has no beneficial title or interest in the Goods unless abandoned (in which event CODA may dispose of such Goods as it deems appropriate in its sole discretion). Customer further agrees that, if it fails to notify carrier as required by the preceding sentence, CODA shall have the right to refuse such Goods and shall not be liable or responsible for any loss, injury, or damage of any nature to or related to, the Goods.

(3) INDEMNITY

Customer agrees to indemnify and hold CODA harmless from any and all claims for unpaid transportation charges, including undercharges, demurrage, detention or charges of any nature, in connection with or related to the Goods. Customer further agrees to completely release and forever discharge and indemnify CODA and its affiliates from and against all claims, damages and/or liabilities arising out of or caused by Customer's breach of any of its obligations, warranties and/or representations.

(4) TENDER OF GOODS TO CODA

All Goods shall be delivered to CODA marked and packaged for handling. The Customer 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 and other services desired.

(5) STORAGE PERIOD AND CHARGES

Storage charges are billed in advance on the first day of each month. All other charges will be billed in accordance with the customary practice of CODA.

(6) TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS

(a) Instructions given by Customer to transfer any Goods are not effective until delivered to and received by CODA, and all charges up to the time transfer is made are chargeable to Customer. If a transfer involves re-handling any Goods, such re-handling will be subject to a charge at CODA's applicable rates.



(b) CODA reserves the right to move, at its expense, 14 days after notice is sent by mail, or electronic mail to the Customer, any Goods in storage from the warehouse in which they may be stored to any other of its warehouses. CODA will store the Goods at, and may without notice move the Goods within and between, any one or more of the warehouse buildings which comprise its warehouse complex.

(c) If, due to any condition of the Goods which CODA was not placed on written notice of at or before the time the Goods were delivered to CODA, the Goods are determined by CODA to be a hazard to any persons, other property, or to the warehouse, CODA may sell the Goods at public or private sale, without advertisement, on advance reasonable notification to Customer. The sale will not occur until at least fifteen (15) days after written notice to Customer, unless the Goods are perishable. If the Goods are perishable the sale may occur immediately upon notice to Customer. If CODA, after a reasonable effort is unable to sell the Goods, or cannot complete a sale, it may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale, or return of the Goods, CODA may remove the Goods from the warehouse and shall incur no liability by reason of such removal. Written notice as set forth in these Ts&Cs is satisfied if given by CODA by email to the last known email address of Customer.

(d) Customer agrees that when CODA releases any Goods to Customer or its authorized representative, including any common carrier or bailee engaged by Customer, that CODA will have no further obligation or responsibility to Customer or for the Goods. A signed receipt from Customer, or its agent, representative, or designee, shall be conclusive evidence that the Goods were not lost or damaged in any way while in the possession of CODA.

(7) HANDLING

(a) The handling charge covers the ordinary labor involved in receiving Goods at warehouse door, placing goods in storage, and returning Goods to warehouse door.

(b) Unless otherwise agreed, labor for unloading and loading Goods will be subject to a charge at the agreed upon rates. Additional expenses incurred by CODA in receiving and handling damaged Goods, and additional expenses in unloading from or loading into cars or trailers or other containers not at warehouse door will be charged to Customer at the customary rates of CODA.

(c) CODA shall not be liable for demurrage or detention, delays in unloading inbound cars, trailers or other containers, or delays in obtaining and loading cars; trailers or other containers for outbound shipment unless CODA's acts or omissions are the sole proximate cause therefor.

(8) DELIVERY REQUIREMENTS

(a) No Goods shall be delivered or transferred except upon receipt by CODA of complete written instructions. Written instructions shall include, but are not limited to, EDI, email, or similar communication. However, when no negotiable receipt is outstanding, Goods may be delivered upon instruction by telephone in accordance with a prior written authorization, but CODA shall not be responsible for loss or error occasioned thereby.

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(b) When Customer requests Goods from the warehouse, a reasonable time shall be given to CODA to carry out the applicable instructions, and if unable to do so because of a Force Majeure Event, or because of loss or destruction of Goods for which CODA is not responsible or liable, or because of any other reasonable excuse offered by CODA, then CODA shall not be liable for failure to carry out such instructions.

(9) EXTRA SERVICES (SPECIAL SERVICES)

Warehouse labor required for services other than ordinary handling and/or storage will be charged to Customer at the applicable CODA rate.

(10) LIABILITY AND LIMITATION OF DAMAGES

(a) In consideration of the rate charged, it is agreed that the liability of CODA shall be that of an ordinary bailee. CODA shall undertake to exercise reasonable care in the storage, transport and handling of the Goods. CODA is not an insurer of the Goods and will be liable only for loss or damage caused by the failure to exercise reasonable care in the storage, transport and handling of the Goods. Customer acknowledges that it shall maintain its own insurance on its Goods for loss or damage while in the possession of CODA. In the event that CODA fails, for any reason, to exercise reasonable care in the transport, storage or handling of the Goods, Customer agrees that the liability of CODA shall be limited to \$0.10 per 100 pounds with a maximum of \$500.00., unless the excess value is declared in writing to CODA and such charges have been paid before the Goods are received by CODA. The filing of a claim does not relieve Customer of its obligation to pay CODA any charges due. Timely invoice payment is a precondition and necessary in order to process a claim. Any amount claimed due by Customer may not be offset from any invoices owed to CODA.

(b) Where damage occurs to Goods for which the CODA is not responsible or liable, Customer shall be responsible for all costs of removing and disposing of such Goods and the cost of any environmental cleanup and site remediation resulting from the loss or injury of Goods, if applicable.

(11) NOTICE OF CLAIM AND FILING OF SUIT

(a) Claims by the Customer and all other persons must be presented in writing, stating in detail the damage, together with photographs and all applicable evidence, to CODA within 30 days:

(i) after receipt or delivery of the Goods to Customer or its designee or;

(ii) notification from CODA to Customer that loss or damage to part or all of the Goods has occurred, whichever time is shorter.

(b) In the event any Goods have not been delivered to Customer or its designee or there is loss or damage to Goods, notice may be given of known loss or damage to the Goods by Customer by overnight mail, electronic data interchange used by CODA, or email.

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(c) All disputes arising from these Ts&Cs and/or services performed hereunder shall be determined exclusively in the State and/or Federal courts located in the county and state in which the services giving rise to the claim were performed. If applicable, and for good and sufficient consideration acknowledged hereby, Customer expressly waives any law that may provide otherwise.

(d) Prior to initiation of any action in court, the parties agree to have the executives of the respective parties confer in person or by telephone to address the dispute and make good faith efforts to resolve it.

(e) In the event of any litigation, the prevailing party shall be paid all reasonable expenses paid, including reasonable attorneys' fees, including all fees paid in the litigation, including appeals and any dispute over the enforcement of the right to recover such expenses and fees.

(11) LIABILITY FOR CONSEQUENTIAL DAMAGES

CODA shall not be liable for any lost profits, special, indirect, or consequential damages of any kind. Its liability shall in all circumstances be limited as provided in these Ts&Cs.

(12) LIABILITY FOR MISSHIPMENT

If CODA misships Goods, through the sole fault of CODA, it shall pay the reasonable transportation charges to redeliver the Goods, up to \$500. If the consignee fails to return the Goods, CODA's maximum liability shall be for the lost or damaged Goods as specified in these Ts&Cs. In no event will CODA be liable for any associated costs, damages, and chargeback's or expenses.

(13) MYSTERIOUS DISAPPEARANCE

CODA shall not be liable for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods unless Customer establishes such loss occurred because of CODA's fault.

(14) RIGHT TO STORE GOODS

Customer represents and warrants that Customer has lawful ownership or possession of the Goods and has the right and authority to deliver all Goods to CODA. Customer agrees to indemnify and hold harmless CODA from all loss, cost and expense (including all reasonable attorneys' fees) which CODA pays as a result of any demand, notice, claim, dispute or litigation, respecting Customer's right, title or interest in the Goods.

(15) LIEN

CODA shall have a general warehouse lien for all lawful expenses and charges for storage, preservation, shipment, disposition, delivery, and presentation of all Goods delivered by Customer to CODA. Such lien shall persist on any Goods delivered by or through Customer irrespective of whether charges are due to CODA in connection with the specific Goods or prior Goods delivered. Therefore, any other Goods affiliated with Customer are subject to a lien for the balance on any



accounts that may be due from Customer. CODA reserves the right to require advance payment of all charges prior to shipment of Goods.

(16) ACCURATE INFORMATION

Customer will provide CODA with accurate information concerning the Goods complete and sufficient to allow CODA to comply with its contractual obligations and with all laws and regulations concerning the Goods' storage, handling and transportation. Customer will indemnify and hold CODA harmless from all loss, cost, penalty and expense (including all reasonable attorneys' fees) which CODA pays as a result of Customer failing to fully discharge this obligation.

(17) SEVERABILITY AND WAIVER

(a) If any provision of these Ts&Cs should be construed or held to be void, invalid or unenforceable, by order, decree or judgment of a court of competent jurisdiction, the remaining provisions of these Ts&Cs shall not be affected thereby but shall remain in full force and effect.

(b) CODA's failure to require strict compliance with any provision of these Ts&Cs shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) hereunder.

(c) These Ts&Cs shall be binding upon the Customer's heirs, executors, successors and assigns; contain the sole agreement governing Goods while in CODA's possession; and cannot be modified in whole or in part except by a writing signed by CODA.

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