

IFS USA WAREHOUSE TERMS AND CONDITIONS OF SERVICE

These warehouse terms and conditions of service constitute a legally binding contract between the “Company” and the “Customer”. All services rendered by Company on behalf of, or for the benefit of Customer, shall be performed in accordance with, and be subject to, these Terms and Conditions.

- 1. Definitions.** (a) “Company” shall mean IFS USA INC., its subsidiaries, successors or assigns, related companies, agents and/or representatives. (b) “Customer” shall mean the person or entity for which the Company is rendering service, as well as its agents and/or representatives. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives; (c) “Documentation” shall mean all information received directly or indirectly from Customer, whether in paper or electric form; (d) “Warehousing Services” shall include all services performed by Company at Company’s warehouse, or in a warehouse leased or otherwise utilized by Company. These services shall include, but not be limited to, storage, on-forwarding, warehouse distribution, packing and crating; (e) “Third parties” shall include, but not be limited to the following: carriers, truckmen, cartmen, lightermen, forwarders, agents, and others to which the goods are entrusted for transportation, cartage, handling, loading, unloading, and/or delivery and/or storage or otherwise.
- 2. Company as Independent Contractor.** Company shall be an independent contractor with respect to the performance of all services performed on behalf of Customer and neither Company nor anyone employed by Company shall be deemed for any purpose to be the employee, agent, servant or representative of Customer in the performance of any service or part thereof in any manner dealt with hereunder.
- 3.** In the performance of the warehousing services, Company shall be considered a warehouseman under applicable local law.
- 4.** For all property of Customer or Customer’s clients entering into the possession of Company as a warehouseman, Company shall issue a warehouse receipt which shall note the description of the merchandise entering the warehouse, including, if available, quantity, type, condition and value of the merchandise. The warehouse receipt may also include the rate of storage and any other charges for services to be rendered with respect to the merchandise. If the warehouse receipt does not list the charges, same shall be subject to the rates set forth in the applicable Item to this Agreement. In the event of conflict between the terms and conditions of any warehouse receipt issued by Company and the terms of this Agreement, the warehouse receipt terms shall control. In the event a warehouse receipt is not issued, any documents issued by Company regarding the shipment shall be considered the warehouse receipt and subject to these terms and conditions.
- 5.** All goods for storage shall be delivered at the warehouse properly marked and packed for handling. Customer shall furnish, at or prior to such delivery, a manifest showing marks, brands or sizes to be kept and accounted for and the class of storage desired, otherwise the goods may be stored on bulk or assorted lots, in freezers,

coolers or general storage at the discretion of Company and will be charged accordingly. Company is not an owner of the goods unless so stated on the reverse side of the warehouse receipt issued. Company undertakes to store and deliver goods only in the packaging in which they are originally received, unless by special arrangement and subject to charge.

6. Unless otherwise agreed by the Company and Customer, a full month's storage charge will apply on all goods received between the first and fifteenth day inclusive of calendar month and one half month's storage charge will apply on all goods received between the sixteenth and the last date inclusive of the month, and a full month's charge will apply to all goods in storage on the first day of the next succeeding calendar month.
7. Except where another procedure is provided by statute, Company may, upon written notice to Customer and to any other person known by Company to claim an interest in the goods, require the removal of all or any part of the goods by the end of the next succeeding storage month. Such notice shall be given by delivery in person or by registered or certified letter addressed to the last known address of the person to be notified.
8. Company is specifically authorized at its sole discretion and without notice to store the subject goods with third parties. Third parties to whom the goods are entrusted may limit liability for loss or damage; Company will request excess valuation coverage only upon specific written instructions from Customer, which must agree to pay any charge therefore. Customer expressly acknowledges that there is a distinction between excess valuation coverage, which increases the legal liability amount of the subject service provider beyond a released value rate, and a request for insurance. In the absence of written instructions from Customer, and/or in instances in which the third party does not agree to a higher declared value, at Company's discretion, the goods may be tendered to the third party subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

9. Limitations of Liability.

- a. Company's liability for loss or damage for warehouse services provided at a warehouse it operates or owns shall be limited to 50 cents per pound per item, unless otherwise provided in the warehouse receipt. Company shall in no way be liable for any loss or damage occurring in a third-party warehouse.
- b. The responsibility of Company, in the absence of any other written provision, is that of reasonable care and diligence required by law. Company shall not be responsible for loss or damage caused by acts of God, fire, insects or rodents, rust, normal wear and tear, leakage, extremes in temperature or ambient moisture, inherent vice, latent defect, loss of market due to delay or any other consequential loss or damage, wars, strikes, riots, civil commotion or any other cause beyond the control of Company. Further Company shall not be responsible for breakage of any fragile items unless packed and/or unpacked by Company. In the absence of any visible signs

of damage, Company shall not be responsible for the mechanical operation of any musical instrument, electronic device of any description or of any photographic equipment. Perishables of any description, which are susceptible to damage through temperature changes or other causes incidental to general storage, are accepted for general storage at Customer's risk.

- c. In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damage in excess of the liability limits set forth above and herein, even if Company has been put on notice of the possibility of such damages.
- d. Merchandise stored in a warehouse as set forth herein for which transit shall have ceased which is not covered by first-party insurance shall not be insured by Company unless requested in writing by Customer and confirmed by Company.

10. Indemnification/Hold Harmless. The Customer agrees to indemnify, defend, and hold the Company harmless from any claims and/or liability arising in any way from the transportation, storage, loading, unloading and/or delivery of the shipments and/or any action, inaction, omission, or conduct of the Customer, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims and/or expenses, including but not limited to reasonable attorney's fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims, including any claims by any Third Party for freight or other charges, duties, fines, penalties, liquidated damages or other money due arising from services provided to or on behalf of the Customer. Customer agrees to indemnify, defend and hold the Company harmless from any claim, suit, demand or action in whatever form, asserted against Company for any injury, death, property damage, environmental damage or advertising injury arising in any way from the transportation, storage, loading, unloading and/or delivery of the shipments.

11. Costs of Collection. All charges must be paid by Customer in advance unless the Company agrees in writing to extend credit to customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by the Company. In any dispute involving monies owed to Company, the Company shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 15% per annum or the highest rate allowed by law, whichever is greater, unless a lower amount is agreed to by Company. The confiscation or detention of a shipment by any governmental authority shall not affect or diminish the liability of the Customer to the Company to pay all charges or other money due promptly on demand.

12. General Lien And Right To Sell Customer's Property. (a) Company shall have a general and continuing lien on any and all property of Customer coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both; (b) Company shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Customer shall notify all parties having

an interest in its shipment(s) of Company's rights and/or the exercise of such lien. (c) Unless, within thirty days of receiving notice of lien, Customer posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies wed, plus all storage charges accrued or to be accrued, Company shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Customer.

13. Termination of Storage.

- a. Company, by giving notice to Customer, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage set forth in the warehouse receipt, or, if a period is not fixed, within a stated period not less than 30 days after the Company gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them as set forth in paragraph 12 herein, or otherwise dispose of them as set forth below.
- b. If Company in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien, Company may give any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale, or otherwise dispose of same, not less than 1 week after a single advertisement or posting.
- c. If, as a result of a quality or condition of the goods of which Company did not have notice at the time of deposit, the goods are a hazard to other property, the warehouse facilities, or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting, on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.
- d. In the event Company is unable to sell the goods, Company may destroy or otherwise dispose of same and Customer shall be responsible for all costs incurred by Company.

14. No Modification or Amendment Unless Written. These terms and conditions of service may only modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

15. Severability. In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect.

16. Governing Law; Consent to Jurisdiction and Venue. These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the State of Florida, without giving consideration to principals of conflict of law. Customer and Company (a) irrevocable consent to the jurisdiction of the United States District Court and the State courts of Florida; (b) agree that venue for any and all disputes hereunder shall lie exclusively in Miami-Dade

county, and agree that any action relating to the services performed by Company, shall be brought in the federal or state courts in said county; (c) consent to the exercise of *in personam* jurisdiction by said courts over it, and (d) further agree that any action to enforce a judgment may be instituted in any jurisdiction.

The undersigned acknowledges receipt and acceptance of the foregoing terms and conditions of service.

Name and Title

Customer