

DECI Warehouse Receipt Terms and Conditions

I. DEFINITIONS

Warehouse” means Durham Exchange Club Industries, Inc. d.b.a DECI (“Warehouse”). “Depositor” means the shipper, consignee, owner of the Goods or its agents, including, without limitation, motor carriers, forwarders, brokers. “Goods” means the merchandise, cargo, that the Depositor tenders for storage. “Contract” means this Warehouse Receipt Terms and Conditions of Contract.

II. ACCEPTANCE

Any goods accepted by Warehouse shall constitute Goods under this Contract.

III. TENDER FOR STORAGE

All Goods shall be delivered at the Facility properly marked and packaged for storage and handling. The Depositor shall furnish at or prior to such delivery a description and quantity of items being delivered.

IV. SHIPPING

The Depositor shall not designate the Warehouse to be the consignee for any Goods under any bill of lading, waybill, air waybill, or any other transportation contract, receipt, or delivery document. If, in violation of the terms of this Warehouse receipt, Goods arrive at the Warehouse and it is the named consignee, the Depositor agrees to notify the carrier in writing prior to such shipment, with copy of such notice to the Warehouse, that the Warehouse is in fact a Warehouse that has no beneficial title or interest in such Goods and the Depositor further agrees to indemnify and hold harmless the Warehouse from any and all claims for unpaid transportation charges, including, without limitation, undercharges, demurrage, detention, or charges of any nature, that arise out of or are in any way connected to the Goods. The Depositor further agrees that if it fails to notify the carrier as the preceding sentence requires, the Warehouse shall have the right to refuse such Goods and it shall not be liable or responsible for any loss, injury, or damage that arises out of or is in any way connected to such Goods

V. LIABILITY AND LIMITATION OF DAMAGES

(a) WAREHOUSE SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO GOODS TENDERED, STORED OR HANDLED HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION ANY SERVICES PROVIDED TO THE GOODS, UNLESS SUCH LOSS OR DAMAGE RESULTED FROM THE FAILURE BY WAREHOUSE TO EXERCISE SUCH CARE IN REGARD TO THEM AS A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES AND WAREHOUSE IS NOT LIABLE FOR DAMAGES WHICH COULD NOT HAVE BEEN AVOIDED BY THE EXERCISE OF SUCH CARE.

(b) GOODS ARE NOT INSURED BY WAREHOUSE AGAINST LOSS OR DAMAGE HOWEVER CAUSED.

(c) THE DEPOSITOR DECLARES THAT DAMAGES ARE LIMITED TO \$0.60 PER POUND, PROVIDED, HOWEVER, THAT SUCH LIABILITY MAY AT THE TIME OF ACCEPTANCE OF THIS CONTRACT BE INCREASED UPON DEPOSITOR’S WRITTEN REQUEST ON PART OR ALL OF THE GOODS HEREUNDER IN WHICH EVENT AN ADDITIONAL MONTHLY CHARGE WILL BE MADE BASED UPON SUCH INCREASED VALUATION.

(d) WHERE LOSS OR DAMAGE OCCURS TO TENDERED, STORED OR HANDLED GOODS, FOR WHICH WAREHOUSE IS NOT LIABLE, THE DEPOSITOR SHALL BE RESPONSIBLE FOR THE COST OF REMOVING AND DISPOSING OF SUCH GOODS AND THE COST OF ANY ENVIRONMENTAL CLEAN UP AND SITE REMEDIATION RESULTING FROM THE LOSS OR DAMAGE TO THE GOODS.

VI. NOTICE OF CLAIM AND FILING OF SUIT

(a) Claims by the Depositor and all other persons must be presented in writing to the Warehouse within a reasonable time, and in no event any later than the earlier of: (i) 60 days after delivery of the Goods by the Warehouse or (ii) 60 days after Depositor is notified by the Warehouse that loss or damage to part or all of the Goods has occurred.

(b) No lawsuit or other action may be maintained by the Depositor or others against the Warehouse for loss or damage to the Goods unless timely written claim has been given as provided in paragraph (a) of this section and unless such lawsuit or other action is commenced by no later than the earlier of: (i) nine months after date of delivery by Warehouse or (ii) nine months after Depositor is notified that loss or damage to part or all of the Goods has occurred.

(c) When Goods have not been delivered, notice may be given of known loss or damage to the Goods by mailing of a letter via certified mail or overnight delivery to the Depositor. Time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by Warehouse.

VII. NO LIABILITY FOR CONSEQUENTIAL DAMAGES

Warehouse shall not be liable for any loss of profit or for any special, indirect, or consequential damages of any kind whatsoever.

VIII. LIABILITY FOR MIS-SHIPMENT

If Warehouse negligently mis-ships Goods, the Warehouse shall pay the reasonable transportation charges incurred to return the mis-shipped Goods to the Facility. If the consignee fails to return the Goods, Warehouse's maximum liability shall be for the lost or damaged Goods as specified in Section V above, and Warehouse shall have no liability for damages due to the consignee's acceptance or use of the Goods whether such Goods be those of the Depositor or another.

IX. MYSTERIOUS DISAPPEARANCE

Warehouse shall be liable for loss of Goods due to inventory shortage or unexplained or mysterious disappearance of Goods only if Depositor establishes such loss occurred because of Warehouse's failure to exercise the care required of Warehouse under Section V above. Any presumption of conversion imposed by law shall not apply to such loss and a claim by Depositor of conversion must be established by affirmative evidence that the Warehouse converted the Goods to the Warehouse's own use.

X. RIGHT TO STORE GOODS

Depositor represents and warrants that Depositor is lawfully possessed of the Goods and has the right and authority to store them with Warehouse. Depositor agrees to indemnify and hold harmless the Warehouse from all loss, cost and expense (including reasonable attorneys' fees) which Warehouse pays or incurs as a result of any dispute or litigation, whether instituted by Warehouse or others, respecting Depositor's right, title or interest in the Goods.

XI. ACCURATE INFORMATION

Depositor will provide Warehouse with information concerning the Goods, which is accurate, complete and sufficient to allow Warehouse to comply with all laws and regulations concerning the storage, handling and transporting of the Goods. Depositor will indemnify and hold Warehouse harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which Warehouse pays or incurs as a result of Depositor failing to fully discharge this obligation.

XII. GENERAL AND SPECIFIC LIEN

The Warehouse claims a general and specific lien for all lawful charges for storage and preservation of the Goods and/or Equipment, and also, for money the Warehouse has advanced, interest, insurance, transportation, labor, weighing, cooping, and other charges and expenses in relation to such Goods, and for the balance on any other accounts that may be due. Warehouse further claims a general warehouse lien for all such charges, advances and expenses with respect to any other Goods stored by the Depositor in any other facility owned or operated by Warehouse. In order to protect its lien, Warehouse reserves the right to require advance payment of all charges prior to shipment of Goods. Warehouse reserves the right to request a non-negotiable forms of payment such as cashier's checks or wire transfer before releasing or delivery goods. The Warehouse reserves the right to exercise its lien rights under the terms of any applicable law and/or agreement between the Depositor and the Warehouse. Depositor agrees that Warehouse's general lien shall survive delivery.

XIII. GOVERNING LAW

These Terms and Conditions of Contract shall be interpreted in accordance with and governed in all respects by the laws of the State of North Carolina.