



Mailing address:
P.O. Box 8430, Santa Rosa, CA 95407
Record Center Location:
1264 Apollo Way, Santa Rosa, CA 95407
Phone: (707) 568-2900 **Fax:** (707) 526-3012
www.infostoronline.com

Record Storage and Services Agreement

INFO STOR, Information Storage Centers, Inc. ("Company") hereby agrees to accept for storage and to service such information material as Client requests ("Stored Material"), subject to the Standard Terms and Conditions and Schedule of Charges, which are attached hereto and incorporated herein.

CLIENT NAME: **Your Company's Name ("Client")**
Address
Phone Number
Account # xxx-xxx
Attention: Contact Name

1. **EFFECTIVE DATE:** The term of this Record Storage and Services Agreement ("RSSA") becomes effective on the first day of the month in which the Stored Material are received. The term will be referred to hereafter as the "Client Anniversary Date". Client acknowledges the Company, pursuant to this order, must reserve space for storage of Client's records in its records centers.
2. **TERM OF CONTRACT:** This RSSA shall be for an initial term of one (1) year and shall automatically renew for successive terms of equal duration until either party shall cancel it by giving the other written notice of its election to cancel at least sixty (60) days prior to the next Client Anniversary Date.

LIMITATION OF LIABILITY:

"Assumed Value" shall be: \$1.00 per box (carton)

Optional Excess Valuation Charges Monthly Rate of \$1.00 per \$1,000.

"Excess Valuation" Declared _____ per box INITIALS _____

ACCEPTANCE:

| | |
|-----------------------------------|--|
| <u>Your Company's Name</u> | INFO STOR, Information Storage Centers Inc. |
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

STANDARD TERMS AND CONDITIONS

Unless modified by specific provisions, the following terms and conditions shall apply to this agreement.

1. STORED MATERIAL

From and after the effective date, the Company shall store and service the Client's Stored Material. Client and Company may modify or add to the Stored Materials under this agreement. Such additional materials shall, unless otherwise indicated in writing, be deemed to be held under the same terms and conditions as the Stored Material. The Company and Client hereby acknowledge and stipulate that the Client's Stored Material does not constitute "goods" within the meaning of Cal. Commercial Code Sec. 7102 (1)(f) and, accordingly, the Company is not a "warehouseman" within the meaning of Cal. Commercial Code Sec. 7102 (1)(h).

2. ACCEPTANCE

In the absence of an executed contract, the act of tendering Stored Material for storage and/or other services by Company constitutes acceptance by Client to the terms, conditions and charges of this contract.

3. FEE SCHEDULE

Fee Schedule is good for one (1) year from contract date. Client agrees to pay Company for its storage and services according to Company's Fee Schedule and any revisions thereto. Monthly storage rental shall be due in advance. Company may change any and all charges upon thirty (30) days' notice to the Client. For Stored Materials received during a month or stored for a portion of a month, charges will be assessed according to the Fee Schedule. Additional charges, if any, shall be paid simultaneously with the monthly charges. In reference to "Past Due Accounts" and "Late Fees", the Company shall be entitled to recover, in addition to damages and such, reasonable attorneys' fees and charges from the Client. A late charge in the amount of (\$5.00) per month, plus 1.5% of the overdue balance, shall be due and owing on any and all amount(s) thirty (30) days past due. Company may suspend any and all services and refuse access to the Stored Material for any accounts unpaid for sixty (60) days after date of invoice.

4. ACCESS TO STORED MATERIALS

- a. Stored Material and information contained in Stored Material shall be delivered only to Client's authorized representative or to persons authorized by such authorized representative. Client represents that the authorized representative has full authority to order any service for or removal of the Stored Material and to deliver and receive such. Such order may be given in person, by telephone (with written follow-up), or in writing.
- b. When Stored Materials are ordered to be accessed, the Company will carry out said instructions and make every commercially reasonable attempt to meet the Client's requested delivery time. If company is unable to provide any service contemplated herein because of acts of God, public enemy, seizure or legal process, riots and civil commotions, or other reason beyond the Company's control, or because of loss or destruction of goods of which the company is not liable, or because of any other excuse provided by law, the Company shall not be liable for the failure to carry out such instructions or services.
- c. The Company reserves the right to deny access or delivery of Stored Materials until such time as Client has cured any material default under this agreement.
- d. Authorized representatives of Client shall have the right at reasonable times and upon reasonable notice to examine the records of data of the Company which pertain to the performance of the provisions of the agreement.

5. LIMITATION OF LIABILITY

- a. Company's liability, if any, for loss, damage, or destruction to the Stored Material shall be limited to the Assumed Value, unless an Excess Valuation is declared, in which case the

Company's liability shall be limited to such Excess Valuation, plus the Assumed Value. In no event shall the Company be liable for any consequential, punitive, lost profits or incidental damages. Such limitation of liability shall apply irrespective of the cause of loss, damage, or destruction of the Stored Material.

- b. Stored Materials are not insured by the Company against loss or injury, however caused. Client may carry its own insurance.
- c. The Client understands and acknowledges that normal deterioration and aging of all record media and Stored Materials occurs with time, and Company is not to be held liable for any such deterioration.
- d. Claims by the Client for loss, damage, or destruction must be presented in writing to the Company within a reasonable time, and in no event longer than sixty (60) days after delivery or return of the Stored Material to the Client, or sixty (60) days after the Client is notified by the Company that loss, damage or destruction to part or all of the Stored Material has occurred, whichever time is shorter.
- e. No action or suit may be maintained by the Client or others against the Company for loss, damage destruction of Stored Material by the Company pursuant to this agreement, unless timely written claim has been given as provided in Section 6.d. of this agreement, and unless such action or suit is commenced either within nine (9) months after delivery or return by the Company or within nine (9) months after the Client is notified that loss, damage, or destruction to part or all of Stored Material has occurred, whichever time is shorter.

6. TERM

Unless sooner terminated as provided herein, the term of this agreement shall be for an initial period of one (1) year and continue for each full year thereafter or until the Authorized Representative gives Company at least sixty (60) days advance written notice of a termination prior to the Client Anniversary Date and an address for delivery of the Stored Material. Client acknowledges upon terminating their contract that the Company must receive payment in full for all storage and services fees, including permanent removal charges fifteen (15) days prior to the scheduled release date.

7. EVENTS OF DEFAULT

7.1 The occurrence of any one or more of the following events shall constitute an "Event of Default":

- a. Client's failure to pay any sum due hereunder within forty five (45) days of due date, or
- b. Material breach of any provision of this agreement, or
- c. Client becomes insolvent or files or has filed against it any proceeding in federal or state court seeking debtor relief.

7.2 Upon the occurrence of any Event of Default, Company, at its sole and absolute discretion, may

exercise any or all of the following remedies without terminating the agreement:

- a. Demand in writing that Client pick up the Stored Material, or
- b. Deliver the Stored Material to the Client Address, at Client's expense.
- c. Client shall continue to pay all sums due under this agreement up to and including the date of delivery of the Stored Material as provided in 7.2.a. and b. above.
- d. Terminate this agreement, at which time Company shall recover all damages suffered by reason of such termination
- e. Recover reasonable attorneys' fees and costs from the Client.

7.3 In the event Company takes any action pursuant to this Section 7, it shall have no liability to Client or anyone claiming through Client. The exercise by Company of any one or more of the remedies provided in this agreement shall not prevent the subsequent exercise by Company of any one or more of the remedies provided herein. All remedies provided for in this agreement are cumulative and may, at the election of Company, be exercised alternatively, successively, or in any other manner and are in addition to any of the rights provided by law.

Company shall be entitled to include all reasonable attorneys' fees and costs incurred in connection with the enforcement of this agreement.

8. DESTRUCTION OR DISPOSAL OF RECORDS OR MATERIALS

8.1 This agreement adopts the standard of proper disposal set forth in the Federal Trade Commission's Rule, "Disposal of Consumer Report Information and Records" (16 CFR Part 682), hereinafter referred to as the "FTC Disposal Rule." Under the FTC Disposal Rule, "[a]ny person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal." [16 CFR § 682.3(a)]

8.2 Upon written instruction from the Client or authorized representative, or upon thirty (30) days advance written notice to Client regarding the occurrence of any Event of Default, pursuant to section 7, above, the Company may facilitate proper disposal of Stored Material. The Client releases the Company from all liability by reason of the destruction of such Stored Material pursuant to such authority or notice.

8.3 The Company requires that prior to Client transferring any Stored Material to Company, an authorized representative of the Client shall sign a copy of the attached Fair and Accurate Credit Transactions Act ("FACT Act" or "FACTA") Affidavit (which will be provided as part of welcome packet). On the affidavit, the Authorized Representative shall certify whether any of the Stored Material constitutes "consumer information" under the FTC Disposal Rule. The authorized representative shall further direct Company to facilitate proper disposal of any Stored Material that (1) The Client identifies as "consumer information," and (2) The Client cannot identify as containing or not containing "consumer information." The Company shall facilitate such proper disposal in accordance with the FTC Disposal Rule requirements in effect at the time of the final disposition. The Client shall bear the costs of such proper disposal directed by this affidavit.

9. TITLE WARRANTY

Client warrants that it is the legal owner of custodian of the Stored Material and has full authority to store said material in accordance with the terms of this agreement.

10. INDEMNIFICATION

Unless caused by the gross negligence of the Company, the Client agrees to fully indemnify and hold harmless the Company, its officers, employees and agents for any liability, cost or expense, including reasonable attorneys' fees, that the Company may suffer or incur as a result of claims, demands, costs or judgments against if arising out of its relations with the Client or third parties pursuant to this agreement.

11. RULES

The Client shall not, at any time, store with the Company any narcotics, materials considered to be highly flammable, explosive, toxic, radioactive, organic material which may attract vermin or insects, or any other materials which are otherwise illegal, dangerous and unsafe to store or handle in a closed area. The Company reserves the right to open and inspect any Stored Material tendered from storage in the presence of the Client due to reasonable suspicions of containing any of the above storage items and refuse acceptance of Stored Material which fail to comply with the Company's storage restrictions and guidelines.

12. CONFIDENTIALITY

The Company and its employees shall hold confidential all information obtained by it with respect to Client's Stored Material. The Company shall exercise that degree of care in safeguarding Stored Material entrusted to it by Client which a reasonable and careful company would exercise with respect to similar records of its own, provided, however, that liability of the Company to Client shall be limited as set forth above.

13. SCANNING SERVICES

If scanning services are to be performed by Company for Client, then the accompanying Proposal for Digital Conversion Services shall be incorporated by reference as is fully set forth herein, and together with this document, shall represent the entire agreement between Company and Client with respect to the subject matter hereof. Company will not accept responsibility for any deficiencies discovered in the scanned images after the thirty (30)-day client review period has been completed. The Company shall not be liable for loss or damage to the source documents resulting from inadequate packaging performed by the Client, or for loss or damage to the source documents or images resulting from improper delivery or from delays in delivery. In any case, Company's liability is limited as set forth herein and Section 5 above.

14. MISCELLANEOUS

This agreement (together with schedules and documents incorporated herein) constitutes the entire agreement between the parties, and supersedes any and all prior agreements, arrangements and understandings, whether oral or written, between the parties. This agreement may not be assigned by Client without the written notice and consent of the Company. No modification of this agreement shall be binding unless in writing, attached hereto, and signed by both Client and Company. No waiver of any right or remedy shall be effective unless in writing and nevertheless shall not operate as a waiver of any other right of remedy on a future occasion. Every provision of this agreement is intended to be severable. If any term of provision is illegal, invalid, or unenforceable, there shall be added automatically as a part of this agreement a provision as similar in terms as necessary to render such provision legal, valid and enforceable. This agreement shall be construed in accordance with the laws of California without giving effect to its conflict of law principles. All schedules, if any, attached hereto are hereby incorporated by reference and made a part hereof. The term "agreement" as used herein shall be deemed to include all such schedules. All notices under this agreement shall be in writing. Unless delivered personally, all notices shall be addressed to the appropriate addresses noted herein or as otherwise noted in writing in accordance with this provision and sent by first class mail. Notices shall be deemed to have been received as of the date of posting if mailed in accordance with this Section 14. All words and phrases in the agreement shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires. Nothing in this agreement shall be deemed or construed to constitute or create a partnership, association, joint venture, or agency between the parties hereto.