

**NATIONAL WOODEN PALLET & CONTAINER ASSOCIATION
PALLET DESIGN SYSTEM®
TRIAL LEASE AGREEMENT**

WHEREAS, the National Wooden Pallet & Container Association of 1421 Prince Street, Suite 340, Alexandria, VA 22314, hereinafter referred to as NWPCA, develops and owns proprietary and copyrighted computer software and programs and leases such proprietary and copyrighted computer programs together with or apart from accompanying copyrighted media material and documentation and,

WHEREAS, the Lessee named below wishes to lease certain NWPCA computer software and related materials called the Pallet Design System (“PDS”) on a trial basis; and,

WHEREAS, Lessee desires to obtain the benefits thereof and, in return, is willing to abide by the obligations and fee agreements applicable to the lease of PDS and the designs created therewith; and

WHEREAS, upon the termination of the “Trial Period” (defined herein), Lessee has the option of obtaining a separate Lease Agreement with NWPCA for the use of the PDS system;

NOW THEN, for good and valuable consideration, including but not limited to this Agreement by NWPCA to Lessee and Lessee’s covenant regarding NWPCA’s proprietary rights, the sufficiency of which is hereby acknowledged, NWPCA agrees to lease PDS to Lessee (but not to Lessee’s parent, owners, shareholders, subsidiaries, affiliates or other third parties) subject to the following terms and conditions:

WITNESSETH

ARTICLE I. EXCLUSIVE SOURCE. Lessee shall obtain all PDS software, including but not limited to the PDS software program and all of the documentation, manuals, computer recorded data, software, source code and any and all copies thereof (Software) and other media upon which the documentation, manuals, data and other materials are recorded through NWPCA (Materials) from NWPCA. Lessee shall make no copies, of any kind, of any of the Software or Materials furnished by NWPCA, unless specifically authorized to do so in writing signed by an officer of NWPCA.

ARTICLE II. PROPRIETARY RIGHTS OF NWPCA. Lessee agrees that NWPCA retains exclusive ownership of the trademarks and copyrights represented by its company and product names and logos, including but not limited to the name PDS, the Materials and the Software, as well as the designs, drawings, plans, specification sheets, data, analyses, information and materials or other output produced by or with the assistance of the Software (the “Output”). Lessee also agrees that all techniques, algorithms, formulas and processes contained in NWPCA’s Software, Materials or Output or any modification or extraction thereof constitute TRADE SECRETS OF NWPCA and will be safeguarded by Lessee, but in no event shall Lessee exercise less than due diligence and care in accordance with the laws of the United States and International Law, whichever operates to best protect the interests of NWPCA. Lessee shall not copy, reproduce, re-manufacture or in any way duplicate all or any part of the NWPCA Materials, Software or Output WHETHER MODIFIED OR TRANSLATED INTO ANOTHER LANGUAGE OR NOT, or any documentation, or any other material provided by NWPCA in association with NWPCA’s Materials, Software or Output except as specified in this Agreement and in accordance with the terms and conditions of this Agreement which remain in force. Lessee agrees that unauthorized distribution, copying, or otherwise reproducing ALL OR ANY PART OR TRANSLATED PART of the Materials, Software or Output or the failure to protect such Materials, Software or Output will actually and materially damage NWPCA. Lessee agrees that in the event Lessee breaches this or any other provision of this Agreement, Lessee will be liable to NWPCA for liquidated damages equal to one year’s lease fees for each violation and will forfeit its license to use any and all NWPCA Materials, Software and Output.

Lessee agrees that the Materials, Software and Output will be used for internal purposes only and that it shall not sell, license or otherwise convey its rights in the Materials, Software or Output to any third party. Lessee further agrees that it shall not use the product for, or in connection with, the rendering of services to any third party other than Lessee’s direct pallet user customers. All Output created by Lessee will bear the trial version watermark, “For Non-Commercial Use Only”, and Lessee agrees not to tamper with the watermark appearing on the Output. NWPCA PDS Lease Agreement

Lessee agrees not to allow any third party to study, copy or use the Output without the express prior written consent of NWPCA, which consent shall be granted or withheld at the sole discretion of NWPCA. Lessee may not provide a copy of the Output, which must bear the Trial Version's watermark, to any external party.

ARTICLE III. ARCHIVAL COPIES. During the Trial Period, Lessee may not make any archival copies of the NWPCA's Material(s) or Software(s) related to PDS. Upon Lessee entering into a full lease agreement with NWPCA for PDS, Lessee may make archival copies of these portions of NWPCA's Material(s) or Software(s) that are provided on machine readable media provided such copies are for the Lessee's personal use and have been authorized in writing signed by an officer of NWPCA. Lessee agrees that in the event Lessee breaches this or any other provision of this Agreement, Lessee will be liable for liquidated damages equal to one year's lease fees for each violation and will forfeit its license to use any and all NWPCA Materials, Software and Output.

ARTICLE IV. MULTIPLE COPY USE. This NWPCA lease of Materials, Software and Output is applicable to a single Lessee entity.

ARTICLE V. LEASE FEES. It is agreed by the parties that there shall be no license/lease fees owed by Licensee to NWPCA for the Trial Period use.

ARTICLE VI. LEASE TRIAL TERM.

- (a) Trial: By executing this Agreement, either in physical form (e.g., sign documentation) or via an electronic signature (a "click wrap" agreement), Lessee is eligible to utilize PDS for a Trial Period. A "Trial Period" is defined as: either a period of two (2) weeks (fourteen (14) consecutive days) from date of first execution of the software by Lessee or Lessee meeting the following use limitation: five (5) saves, one (1) print, and ten (10) analyses; whichever occurs first (i.e., the passage of 2 weeks or meeting the use limitation by Lessee. The Trial Period License/Lease shall terminate immediately upon the passage of either condition and all rights granted Licensee shall cease, absent Licensee executing a full license/Lease Agreement with NWPCA.
- (b) Conversion to full License: At any time during the Trial Period, or upon expiration of the Trial Period, Licensee may execute in physical form (e.g., sign documentation) a full License/Lease Agreement to be a PDS licensee. A full PDS License/Lease provides Licensee full privileges of use of PDS as set forth in that separate agreement. (e.g., allowing for archival copying per Article III).

ARTICLE VII. COPYRIGHTS, TRADEMARK NOTICES, LEGENDS AND LOGOS. NWPCA Materials, logo, product names, Software, Output, manuals, documentation and other support materials are either patented, copyrighted, trademarked, trade secrets, or otherwise proprietary to NWPCA. Lessee agrees not to remove any such notices and product identification.

ARTICLE VIII. TRANSFER OF LEASE. Any such right of transfer does not apply to a Trial period.

ARTICLE IX. LIMITED WARRANTY POLICY. NWPCA warrants that all Software, manuals documentation and other support materials supplied by NWPCA are free from manufacturing defects and contain accurate reproductions of NWPCA copyrighted material. NWPCA will replace any NWPCA furnished item which is defective, provided the defect is reported to NWPCA within ten (10) days of delivery of the Software to Lessee. NWPCA makes no express or implied warranties of any kind regarding the accuracy of the Output or other data produced through the use of its Software. NWPCA's entire liability for any claim arising out of or in connection with this Agreement, or the use of its Materials, Software or Output, whether arising in tort, contract, or otherwise, shall be limited to one year's lease fees.

NWPCA will not be responsible for any consequential, indirect, incidental or special damages resulting from the use of its Materials, Software or Output, including, but not limited to, the loss or inaccuracy of Output or other data produced through the use of its Materials, Software or Output. NWPCA will not honor any claim where the Lessee is not using the latest revisions provided by NWPCA or where the Software, Materials or Output have been subjected to physical abuse or have been used in defective or incompatible equipment. NWPCA will not honor any claim where there is no signed Lease Agreement acknowledgement on file at NWPCA Headquarters. Materials, Software and Output provided by NWPCA are intended for commercial use only.

ARTICLE X. RESPONSIBILITY. The Lessee understand and agrees that, in issuing this lease, NWPCA does not approve, certify or endorse or in any way guarantee any product or construction or the performance thereof manufactured or used according to the PDS Software or the Output provided under this agreement. NWPCA assumes no liability to Lessee or third parties with respect to any such product or the construction or the performance thereof. The Lessee shall indemnify NWPCA and its agents and hold the same harmless from any and all claims arising or alleged to arise out of a defect or deficiency in the design or manufacture of any product manufactured, sold or distributed by the Lessee to designs generated from PDS Software or Output or arising or alleged to arise out of the relationship between the Lessee and NWPCA or its agents as owner of the PDS Software.

ARTICLE XI. LEASE IDENTIFICATION. All Output shall bear the Trial Version watermark and NWPCA's copyright notice. Lessee agrees not to tamper with or alter the watermark appearing on the Output. Under no circumstances shall the "Preparer" name section bear a name other than that of the Lessee.

ARTICLE XII. TERMINATION OF LEASE. If any one or more of the provisions of this Agreement is breached, or if Licensee is either involved or implicated in any action or inaction the result of which, in the sole discretion of NWPCA, is detrimental to the reputation of NWPCA or the PDS system, NWPCA has the right to immediately terminate this Lease upon written notice to Lessee. Notwithstanding the foregoing, NWPCA has the right to terminate a Trial Period license/lease for any or no reason immediately upon notification to the Lessee. Nevertheless, in the event of and such termination, all the provisions of this Agreement which operate to protect the rights of NWPCA shall continue in force. In the event this Agreement is terminated, the Lessee agrees to cease using and, upon request by NWPCA, immediately return to NWPCA all Materials, Software, including the PDS Software, Output, manuals, documentation and copies thereof, regardless of the form in which they appear or are stored, at Lessee's expense.

ARTICLE XIII. INJUNCTIVE RELIEF. It is understood and agreed that, notwithstanding any other provisions of this Agreement, in addition to any other remedies NWPCA may have at law or in NWPCA PDS Lease Agreement equity, including those referred to above, NWPCA shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance, and to protect the proprietary rights of NWPCA and to prevent a breach or contemplated breach, of this Agreement.

ARTICLE XIV. GOVERNING LAW. This Agreement shall be interpreted in accordance with the laws of the state of Virginia. In the event any part of this Agreement is invalidated by court or legislative action of competent jurisdiction, the remainder of this Agreement shall remain in binding effect.

ARTICLE XV. LEGAL FEES. In the event of legal action brought by either party, the Lessee agrees to reimburse NWPCA for all legal fees associated with said action should NWPCA prevail.

ARTICLE XVI. ENTIRE AGREEMENT. This Agreement and attached fee schedule constitute the entire agreement between the parties and supersedes any prior agreements. This Agreement may only be changed by mutual written consent. This Agreement may be executed in multiple counterparts, including by facsimile or other electronic transmission or "click through", and each full reproduction, including reproductions by photocopy, scan or electronically shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

ARTICLE XVII. LESSEE AGREEMENT ACKNOWLEDGEMENT. By signing and returning this Agreement Acknowledgement, the Lessee hereby accepts all the terms and conditions of this Agreement without exception, deletion or alteration. Lessee recognizes that any use of NWPCA Materials, Software or Output without the return of this Lease Agreement Acknowledgement and applicable fees will be considered a breach of contract, and otherwise unlawful and unauthorized use of NWPCA's trade secrets and proprietary products.

The Lessee acknowledges that Lessee has read this Agreement and any applicable exhibits, understands them, and agrees to be bound by their terms and conditions. Further, the Lessee agrees that this Agreement and any applicable exhibits are the complete and exclusive statement of the agreement between the undersigned parties, which supersedes all proposals or prior agreements, oral or written, and all other communications between the parties. In the event of a conflict, the terms of this Agreement will prevail.

Accepted by:

**National Wooden Pallet & Container
Association**
1421 Prince Street, Suite 340
Alexandria, VA 22314-2805

By _____
Brent J. McClendon, CAE
President & CEO

Date: _____

Accepted by:

Lessee:

Company

Street Address

City, State and Zip

Authorized Signature

Print Name

Title

Date