

The entire agreement between **Serv Transport, LLC** (“Warehouseman”) and the customer identified on the Quote (“Customer”) consists of: (i) the terms on the Quote and any addenda thereto, (ii) these Terms and Conditions of Warehouse Services, and (iii) any additional terms and conditions mutually agreed in writing by Warehouseman and Customer ((i) through (iii) collectively, the “Agreement”). In the event of a conflict, the terms on the Quote and any addenda thereto shall supersede these Terms and Conditions of Warehouse Services. Any terms and conditions proposed by Customer which are additional to or inconsistent with the terms and conditions of this Agreement shall be void.

“Quote” means pricing quotations provided to the potential customer by Serv Transport, LLC , in writing (e-mail sufficient) which shall be referred to herein as “Appendix A”.

“Goods” means any property, equipment, materials, or freight of whatever description to be handled by Warehouseman on behalf of Customer hereunder.

“Facility” means Warehouseman’s warehouse facility or facilities, collectively, as set forth in the Quote.

All capitalized terms used, but not defined herein shall have the meanings set forth in the Quote.

1. Acceptance.

1.1. From time to time, as its business needs require, Customer shall tender its Goods to Warehouseman for customary warehouse services, as further described herein (“Services”) at Warehouseman’s Facility. Warehouseman shall accept the Goods tendered by Customer to the extent that space is available at the Facility and provide the Services.

1.2. The rates and charges as provided by Warehouseman (“Appendix A”) are based on key assumptions and descriptions provided by the Customer, as may be described in a written appendix to this Agreement (“Appendix B”). In the event that Goods tendered for Services do not conform in material respect to the description provided in advance by Customer or the key assumptions/profile provided varies from the actual profile, then Warehouseman shall have the option, (1) to reject such Goods, in which case Customer shall bear all cost, expense, and liability from such rejection, or (2) to accept the Goods provided that Customer shall be liable for and shall pay the rates and charges applicable to the Goods and Services as properly described.

2. Shipping.

2.1. Customer shall not ship Goods to Warehouseman as the named consignee. Rather, Customer shall ship Goods to the Facility in Customer's own name in care of Warehouseman.

2.2. If, in violation of the foregoing requirement, Goods are shipped to Warehouseman as named consignee, then Customer shall provide Warehouseman with documentation stating that Warehouseman was named in error as consignee, and shall notify its carrier that Warehouseman has no beneficial interest in, or title to the Goods. Whether Warehouseman accepts or refuses Goods shipped in violation of this Section 2, Customer further agrees that it shall indemnify, defend, and hold Warehouseman harmless from any and all claims for unpaid transportation charges, including undercharges, demurrage, detention, or similar charges in connection with Goods so shipped. Warehouseman shall have the right to reject any goods shipped to Warehouseman as consignee and shall have no liability for any loss, injury, or damage of any nature to, or related to, such goods.

3. Tender for Warehouse Services.

3.1. Customer represents and warrants that Customer has lawful possession of the Goods and has legally sufficient right, interest, and authority to store them with Warehouseman, and, to the extent applicable, that Customer has all necessary licensing to handle, and provide Goods for storage by Warehouseman pursuant to any legal, regulatory, or governmental authority concerning Hazardous and/or Dangerous Goods. All stored Goods shall at all times be and remain the exclusive property of Customer. Warehouseman shall make no representation to others that Warehouseman has any ownership rights in the stored Goods.

3.2. Customer shall provide Warehouseman with information concerning the Goods which is accurate, complete, and sufficient to allow Warehouseman to comply with all laws and regulations concerning the storage, handling, and transporting of the stored Goods, as may be applicable to services undertaken by Warehouseman, including without limitation whether the Goods qualify as "hazardous materials" under all applicable, local, state and federal laws and regulations.

3.3. Warehouseman may refuse to accept any Products that, in the reasonable judgment of Warehouseman, would cause contamination or damage to other goods stored in the Facility, and shall immediately notify Customer of such refusal in writing setting forth in reasonable detail the basis for Warehouseman's judgment as contemplated above. Warehouseman may, in any reasonable manner, dispose of any Goods that, in

Warehouseman's reasonable judgment, are damaged, infested, contaminated or likely to cause injury or damage, at Customer's cost.

3.4. Warehouseman may refuse to accept any material that, in the reasonable judgment of Warehouseman, would cause the materials to occupy more space in the Facility than is then available to Customer pursuant to the terms of this Agreement. Warehouseman shall have no liability for any demurrage, detention, transportation or other charges by virtue of any such refusal.

3.5. Customer agrees that all Goods tendered for warehouse services shall be delivered at the Facility properly marked and packaged for handling and storage by Warehouseman. Customer shall furnish at or prior to delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired.

3.6. If requested by Customer, Warehouseman shall furnish an electronic warehouse receipt to Customer for each delivery of Goods to the Facility, within a reasonable time. The warehouse receipt shall state the product SKU, count, and date of receipt of the Goods upon delivery. This Agreement shall govern and prevail over each warehouse receipt, and all receipts shall be subject to this Agreement.

4. Storage Period and Charges.

4.1. The rates and charges applicable to warehouse storage, handling, and other services provided by Warehouseman under this Agreement shall be those set forth in the Quote. Warehouseman shall have the right to adjust the rates and charges after the one (1) year anniversary of the Effective Date at any time(s) upon thirty (30) days' advance, written notice to Customer or in accordance with Section 1.2.

4.2. Customer agrees that charges will apply to each account when Customer has several accounts, each requiring separate records and billing. When a warehouse receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, or variety may be assessed as set forth in the Quote.

4.3. Payment terms shall be determined by Warehouseman, in its sole discretion, based upon its review of Customer's creditworthiness and shall be indicated in the Parties' Appendix A. Notwithstanding anything to the contrary herein, Customer must pay all charges related to its final/last remaining inventory in advance, prior to release by Warehouseman. Warehouseman shall have no obligation to release any final/last inventory until said charges are paid by Customer. Customer may not dispute any portion of an invoice after thirty (30) days of the invoice date.

4.4. Storage charges become applicable upon the date that Warehouseman accepts care, custody and control of the Goods. Customer is responsible for any tax imposed in connection with its Goods by any taxing body having jurisdiction over the Facility, including but not limited to, personal property tax.

4.5. Warehouseman shall have the right to assess interest charges of 1.5% (but never in excess of the maximum legal rate) per month on any balance due Warehouseman, which remains unpaid by Customer. Customer agrees that Warehouseman shall have the right to any warehouseman's lien available at law, howsoever arising over the Goods or Services, if Customer fails to maintain and uphold its covenants under this Agreement or any other agreement or account between Customer and Warehouseman, including, but not limited to, timely payment for services and storage rendered, all lawful claims for money advanced, interest, insurance, transportation, labor and other charges. In all instances where Warehouseman stores Goods for Customer, Warehouseman is a warehouseman as provided by law, and as such is entitled to all rights, remedies, liens and other protections afforded a warehouseman.

5. **Term.** This Agreement shall be for a term of one (1) year, commencing on the date set forth in the Quote ("Effective Date"), unless sooner terminated by either party in accordance with the terms of this Agreement. Upon such termination, the Parties shall cooperate and act in good faith to ensure the prompt return of Goods to Customer and prompt payment of all sums due Warehouseman. If this Agreement has not been so terminated, then it shall automatically renew for successive one (1) year terms.

Transfer, Termination of Storage, Removal of Goods.

6.1. Instructions to transfer Goods on the books of Warehouseman are not effective until delivered to Warehouseman, and all charges up to the time transfer is made in accordance with such instructions are chargeable to Customer. If a transfer requires re-handling of the Goods by Warehouseman, then Warehouseman may assess a charge for this service in accordance with the Quote. When Goods in storage are transferred from one party to another through issuance of a new warehouse receipt, a new storage date is established on the date of transfer. Warehouseman shall have the right to assess an administrative charge for processing and issuing the new warehouse receipt in accordance with the fee set forth in Quote. Warehouseman shall have the right to move Customer's Goods from the Facility to any other of Warehouseman's warehouses, after providing not less than fourteen (14) days' advance written notice to Customer of such move if relocation

of cargo is necessary to protect the integrity of the Goods or otherwise protect the Customer's vested interest therein. If Customer objects to the proposed move within the 14-day period and elects to take delivery of the Goods in lieu of such movement, then Warehouseman shall not assess storage charges for the current storage month. Customer shall expeditiously arrange transportation to take delivery of the Goods and bear all related costs and expenses. Warehouseman may without notice to Customer move the Goods within and between the buildings which comprise the Facility, provided that Warehouseman shall take due care to protect the Goods and shall reimburse Customer for any damage to the Goods caused by the negligence or intentional misconduct of Warehouseman, within the limits of liability outlined in Section 9.1.

6.2. Warehouseman may, upon written notice to Customer or any other person known by Warehouseman to claim an interest in the Goods, require the removal of the Goods by the end of the next succeeding month (the end of the month following the month in which notice is given). If Customer has not removed the Goods by the end of the next succeeding month as directed, then Warehouseman shall have the right to dispose of the Goods by public or private sale to recover any unpaid balance owed by Customer to Warehouseman. Any remaining proceeds from such sale shall be remitted to Customer.

6.3. If Warehouseman reasonably believes that the Goods have become, or may become, an immediate hazard to other property, to the Facility, or to any person, then Warehouseman may immediately dispose of the Goods and, in such instance, Warehouseman shall have no duty to provide advance notice to Customer or any other person believed to have an interest in the Goods; provided however, that Warehouseman shall use commercially reasonable efforts to provide advance notice to Customer in writing or by telephone. Warehouseman shall prepare a written record of the circumstances giving rise to the disposal, including a description of the hazard, or potential hazard, and the cause (if known). Customer shall bear the costs and expenses of disposal, and Warehouseman shall not bear any liability of any kind arising from its disposal of the Goods under such circumstances, unless Warehouseman's decision was grossly negligent or made in bad faith. If Warehouseman in good faith believes that the Goods are about to deteriorate or decline in value, or have so deteriorated or declined in value (i.e. the Goods are perishable, have a limited shelf-life or expiration, etc.), to less than the amount of Warehouseman's lien before the end of the next succeeding storage month, Warehouseman may immediately exercise its warehouseman's lien as provided by law.

Handling.

7.1. Warehouseman's handling charges assume and cover its ordinary labor involved in receiving the Goods at the warehouse door, placing the Goods in storage, and returning the Goods to the warehouse door. All handling charges become applicable upon the date that Warehouseman accepts care, custody and control of the Goods at the rates set forth in the Quote. If Warehouseman incurs costs or expenses because the Goods arrive at the Facility in damaged or loose condition, then Warehouseman shall have the right to assess additional charges as set forth in the Quote. Warehouseman shall also have the right to assess additional charges for unloading or loading the Goods into cars or other vehicles not at the Facility door as set forth in the Quote.

7.2. Warehouseman 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 caused by Warehouseman's negligence and not due to factors outside of Warehouseman's reasonable control.

8. Extra Services/Special Services.

8.1. Warehouse labor required for special services other than agreed to handling and storage will be charged to Customer in accordance with the Quote.

8.2. Special services requested by Customer, including but not limited to, compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical check of Goods; and handling transit billing will be subject to charges as set forth in the Quote.

8.3. Warehouseman may furnish dunnage, bracing, packing materials, or other special supplies, upon the request of Customer at a charge in addition to Warehouseman's cost.

8.4. By prior arrangement, the Goods may be received or delivered during other than usual business hours, subject to a charge as set forth in the Quote.

8.5. Communication expense, including postage, teletype, telegram, email, or telephone, will be charged to Customer if such concern more than normal inventory reporting or if, at the request of Customer, communications are made by other than regular United States Mail.

9. Insurance, Liability and Limitation of Damages.

9.1. Warehouseman shall not be liable for any loss, damage or injury to the Goods however caused except to the extent: (i) such loss, damage or injury resulted from the

negligent acts or omissions of Warehouseman; or (ii) the original packaging of any damaged Goods was altered between the time the Goods were tendered to Warehouseman and the time they were tendered in return to the earlier of Customer or its Carrier, or evidenced exterior physical damage that was not recorded by Warehouseman and communicated to Customer upon tendering of the Goods to Warehouseman at the Facility. In the case of (ii) above, Warehouseman will only be liable for loss or damage to the Goods where (a) the Customer or its Carrier identified the altered or damaged packaging prior to loading of the Goods onto Customer's transport and (b) the Goods were unpackaged and inspected and the loss or damage recorded prior to loading onto Customer's transport. Notwithstanding anything to the contrary contained in this paragraph 9.1. Warehouseman shall in no event be liable for any loss, damage or injury to the Goods not caused by the negligent acts or omissions of Warehouseman, such as, but not limited to, fire, theft and force majeure events. In no event shall Warehouseman be liable for more than \$0.10 per lb. for loss, damage or injury to the Goods, and IN NO EVENT SHALL ANY SUCH LIABILITY EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) PER OCCURRENCE.

9.2. Customer represents and warrants that it maintains first party property and casualty insurance coverage on the Goods, and that Customer shall maintain such insurance at all times pertinent to this Agreement, including without limitation, at the time of tender of the Goods to Warehouseman, throughout the time that the Goods are stored at the Facility, and at the time the Goods are transferred out of the Facility.

9.3. Customer recognizes and understands that Warehouseman does not and will not maintain first party property and casualty insurance coverage on the Goods at any time, and that any potentially relevant insurance coverage maintained by Warehouseman is fault-based liability insurance only.

9.4. Where loss or injury occurs to Goods for which Warehouseman is not responsible, Customer shall be responsible for the cost of removing and disposing of such Goods, including without limitation, the cost of any resulting environmental cleanup and/or site remediation.

9.5. Customer expressly agrees that Warehouseman shall not be liable for any special, indirect, punitive, exemplary or consequential damages of any kind, including without limitation lost profit, loss of good will, lost use, lost business, or chargebacks or fines imposed by Customer's customer or consignee, arising out of, or in any way connected to, this Agreement.

10. Indemnity Against Third Party Claims.

10.1. Customer shall indemnify, defend, and hold Warehouseman harmless and defend him from any and all harm, loss, liability, cost, penalty, fine, injury, and expense (including reasonable attorneys' fees) (collectively, "Losses") which arises in connection with (i) Customer's failure to comply with its obligations under this Agreement, including without limitation any Losses resulting from or connected with the hazardous, toxic, corrosive, dangerous, or harmful nature of the Goods; and (ii) any injury to or death of any persons authorized by Warehouseman to be present at the Facility or damage to property whatsoever (including a third party's) in relation to storage, handling or transporting of the Goods, to the extent caused by Customer's negligence or intentional misconduct. It is agreed and understood that damage to property includes without limitation damage to the environment, contamination, and pollution, and/or release into the atmosphere, ground, or water.

10.2. Warehouseman shall defend, indemnify and hold Customer harmless from any and against all Losses to the extent resulting from Warehouseman's negligence or intentional misconduct, including (i) the injury to or death of any persons authorized by Warehouseman to be present on said property, (ii) damage to property (including third party property), or (iii) environmental liability unless caused by Customer's negligence. In no event will Warehouseman's liability hereunder exceed the compensation actually paid by Customer to Warehouseman for the Services for the three (3) month period preceding the events underlying the claim for indemnification.

10.3. In the event that Customer instructs or otherwise authorizes Warehouseman to ship Goods using a specified third party shipping service, Customer shall be fully responsible directly to that shipping service for all associated charges and, except to the extent resulting from any negligence or intentional misconduct on the part of Warehouseman, shall defend, indemnify and hold Warehouseman harmless from and against any and all past, present or future claims, demands, obligations, actions or causes of action asserted by third parties which arise out of such shipment, including without limitation claims by the shipping service for payment and all other claims for damages, costs, fees, losses of service, compensation, interest or expenses of any nature whatsoever.

11. Notice of Claim and Filing of Suit.

11.1. Any claim by Customer for loss, damage, or injury to the Goods must be presented in writing to Warehouseman within thirty (30) days of (i) the date on which the Customer receives written notice of the loss, damage, or injury from Warehouseman, (ii) delivery of the Goods by Warehouseman to Customer, or (iii) the date on which Customer first knew or should have known of the loss, damage, or injury, whichever occurs first.

11.2. No civil action or lawsuit may be maintained by Customer against Warehouseman for loss, damage, or injury to the Goods unless a timely written claim has been made as provided in paragraph 11.1 of this section, and unless such action or lawsuit is commenced within one (1) year of the date of the written claim to Warehouseman.

12. Liability for Mis-shipment. If Warehouseman negligently mis-ships Goods, then Warehouseman shall (i) re-process the order at no cost to Customer, (ii) have no liability for expedited shipping costs and expenses. If the consignee fails to return the Goods that were mis-shipped, then Warehouseman's maximum liability for such Goods shall be as set forth in Section 9 above. Furthermore, Warehouseman shall have no liability for damages arising from the consignee's acceptance or use of the mis-shipped Goods.

13. Mysterious Disappearance. Customer must establish that an inventory shortage or unexplained or mysterious disappearance of Goods occurred because of Warehouseman's failure to exercise due care or willful misconduct in order for Warehouseman to be liable for such a loss. The amount of any inventory shortage or loss or damage for which reimbursement is due from Warehouseman shall be reduced by a loss allowance of 1.0% of the number of cases handled by Warehouseman in the year in which the shortage occurred (the "Loss Allowance"). The reimbursement rate for any shortage shall be determined by reference to the lesser of Customer's cost of manufacture or invoice cost, plus the cost of inbound transportation. Any presumption of conversion imposed by law shall not apply to an inventory shortage or unexplained or mysterious disappearance, and Customer must establish any claim for conversion by affirmative evidence that Warehouseman converted the Goods to its own use. Any proven claim of loss or conversion under this Section 13 shall not void, alter, or negate the limitations on Warehouseman's liability as set forth in Sections 9 and 11.

14. Severability and Waiver.

14.1. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be severed, and the remaining provisions of this Agreement shall not be affected thereby but shall continue in full force and effect.

14.2. Either Party's failure to require strict compliance with any provision of this Agreement on any occasion or number of occasions shall not constitute a waiver of its right to require strict compliance with that or any other provision(s) of this Agreement. In order to be effective, any waiver must be in writing and executed by the Parties.

14.3. The rights and remedies made available to either Party, hereunder, shall be cumulative, rather than exclusive, and either Party's exercise of any specific right or remedy shall not limit or waive any other right or remedy available under this Agreement or available at law or in equity.

15. **Warehouseman's Compliance.** Warehouseman shall have and maintain licenses and permits for its warehouse operations to the extent required under applicable law and shall have and maintain any and all insurance as may be required by applicable law. Warehouseman will provide Customer with said licenses and permits upon Customer's request.

16. **Independent Contractor.** The relationship between the Parties under this Agreement is that of an independent contractor. This Agreement and the Parties' business relationship are not, and shall not be deemed to create any agency, partnership, joint venture, or employer-employee relationship. It is agreed and understood that Warehouseman may, in its sole discretion, provide services to Customer, in whole or in part, by engaging subcontracted service providers. In such event, Warehouseman shall use due care in order to select competent service providers and this Agreement shall remain in effect, as between Warehouseman and Customer.

17. **Notices.** Notices shall be sent by registered mail, return-receipt requested, nationally-recognized express courier service, or e-mail to each Party at the address(es) shown below or to such other addresses as shall have been designated in writing.

18. **Force Majeure.** Each Party shall be relieved of its respective obligations under this Agreement, other than payment obligations, for the duration of any force majeure event, which shall include acts of God, flood, earthquake, hurricane, tornado, riot or civil disturbance, acts of public enemy, acts of terror, war, insurrection, sabotage, labor disturbance, governmental order or decree, breakdown of equipment, inability to procure materials or equipment from usual sources of supply, or similar events beyond the reasonable control of the Party. The Party experiencing a force majeure shall provide written notice to the other Party within three (3) days of the onset of such event and again within five (5) days of the end of such event. The initial notice shall describe the force majeure, including its cause and likely duration.

19. **Assignment.** Warehouseman may assign this Agreement to any member of its corporate family in its sole discretion without providing notice to, or obtaining the consent of, Customer. Otherwise, either Party may assign this Agreement only upon

the advance written consent of the other Party, which consent shall not be unreasonably withheld.

20. **Merger.** This Agreement constitutes the entire agreement between the Parties and supersedes any other representations, statements, agreements, and understandings with respect to the subject-matter hereof. This Agreement may not be modified, amended, or altered except by a written instrument duly executed by the authorized representative of each Party. No bill of lading, tariff, circular, pricing schedule, quote, shipping paper, or similar document shall modify, amend, alter, or augment this Agreement unless incorporated by the Parties via a separate, duly executed written instrument.
21. **Gain Sharing.** In the event that Warehouseman identifies cost saving opportunities during the term of this Agreement, it will present such opportunities to Customer. The parties will specifically discuss such cost savings and cost avoidance initiatives that Warehouseman can or should implement and, upon mutual agreement, Warehouseman will take reasonable efforts to implement such initiatives. If the Parties realize an actual cost savings or a reasonably measurable cost avoidance as a result of such initiatives, then the Parties shall share equally the amount of such savings.
22. **Governing Law and Venue.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania (without regard to any conflict of law provision). Each Party consents to the jurisdiction of the Court of Dupage County in the State of Illinois or the United States District Court for the Northern District of Illinois in Cook County, Illinois and hereby waives any claims or defense that such forum is not convenient or proper. The Parties agree that any such court shall have in person jurisdiction over it, and consents to service of process in any matter authorized by state or federal law. This Agreement, price quotes, and related warehouse receipts for each tender of Goods hereunder constitute a "Warehouse Receipt" for the purposes of Article 7 of the Uniform Commercial Code as enacted in the Commonwealth of Pennsylvania. The parties further acknowledge that Warehouseman utilizes an electronic warehouse management system ("WMS"). Entries in the WMS may include the warehouse location, date received, description, and quantity/number. This Agreement incorporates the information stored in the WMS by reference.