

NON-NEGOTIABLE WAREHOUSE RECEIPT AND INVOICE

CONTRACT TERMS AND CONDITIONS

SECTION 1 # DEFINITIONS:

As used in this Non-Warehouse Receipt and Invoice (this "Warehouse Receipt") the following Capitalized terms have the following meanings:

- (a) CHARGES. All amounts of any nature at any time due or claimed to be due to ColdHub Management, LLC., (hereinafter "ColdHub") with respect to the Goods, whether liquidated or unliquidated, including but not limited to loans, disbursements, expenses, advances, storage, handling and transportation charges (including demurrage, detention and terminal charges), charges and expenses incurred in the preservation and sale of the Goods pursuant to law, charges incurred for services as provided herein, interest charges and all other charges and expenses of every nature, present and future, incurred by or for the account of Storer or any predecessor in interest or with respect to any Goods.
- (b) GOODS. The personal property and any portion thereof identified on each numbered page entitled "Non-Negotiable Warehouse Receipt".
- (c) LOT or LOTS. Unit or units of Goods for which a separate account is kept by Logistics.
- (d) STORER. The person, firm, corporation or other entity for whom the Goods described herein are stored and to whom this Warehouse Receipt is used and anymore else claiming and interest in the Goods.

SECTION 2 – TENDER FOR STORAGE:

- (a) All Goods for storage shall be delivered at the warehouse location indicated on each numbered page entitled "Non-Negotiable Warehouse Receipt" properly marked and packed for handling as reasonably determined by ColdHub. ColdHub shall store and deliver Goods in the packages in which they were originally received.
- (b) Storer shall furnish, at or prior to tender of the Goods, a manifest showing marks, brands or sizes to be kept and accounted for separately and the class of storage desired. If such manifest is not provided. ColdHub may commingle and store the Goods in bulk or assorted Lots in freezer, cooler or general storage at the discretion of ColdHub and charges for such storage will be made at then applicable rates as published or quoted by ColdHub.
- (c) ColdHub shall not be responsible for segregating Goods by production code date or otherwise unless specifically agreed to in writing.
- (d) Storer warrants that the Goods tendered for storage are not infested with pests, bacteria or any other contaminants whatsoever and that the goods do not in the future present or constitute a danger to ColdHub, its affiliates or its employees to other products or to the warehouse. Storer hereby agrees to hold ColdHub and its affiliates harmless from and indemnify ColdHub and its affiliates against any and all losses, expenses, damages and costs, including reasonable attorney's fees and court costs ("Losses"), arising from or attributable to a breach of the aforesaid warranty.

SECTION 3 – TERMINATION OF STORAGE:

- (a) ColdHub may, upon written notice to Storer, require the removal of the Goods, or any portion thereof, from the warehouse at the termination of the period of storage, if any, fixed by this Warehouse Receipt or after the expiration of thirty (30) days from such notice whichever is earlier. If, in the opinion of ColdHub, Goods are about to deteriorate or decline in value to less than the amount of Warehouseman's lien, or there is a threat of damage to the Goods, to other property

to the warehouse, or to persons, ColdHub may specify in the notice a shorter period for removal. All Charges relating to the Goods to be removed shall be paid prior to removal. If such goods are not so removed and said Charges paid. ColdHub may, at Storer's expense, remove the Goods to another storage facility, or sell the Goods as provided by law and shall be entitled to exercise any other rights it has under law with respect to such Goods.

- (b) If, in the opinion of ColdHub, Goods may constitute a hazard to other property or to the warehouse or to persons, ColdHub may, at Storer's expense, remove such Goods, and sell or dispose of them as permitted by law without liability to Storer.

SECTION 4 – STORAGE LOCATION:

- (a) The Goods stored pursuant to this Warehouse Receipt shall be stored at ColdHub' discretion in any one or more buildings at the warehouse complex identified on each numbered page entitled "Non-Negotiable Warehouse Receipt". The identification of any specific location within the warehouse complex does not constitute a representation that the Goods shall be stored there.
- (b) Subject to any contrary written instructions given by Storer, ColdHub may, at any time, at its expense and without notice to Storer, remove any goods from any room or area of the warehouse complex to any other room or area thereof.

SECTION 5 – STORAGE CHARGES; STORAGE PERIOD:

- (a) Charges for freezing, storage, handling and other services shall be billed in advanced in the manner indicated herein and are due upon receipt of the invoice. Storage charges commence upon the date that the goods are received for uploading and inspection for condition and count. ALL CHARGES ARE DUE AND PAYABLE WITHOUT ANY DEDUCTION OR OFFSET WHATSOEVER.
- (b) ALL GOODS ARE STORED ON A MONTH-TO-MONTH BASIS, unless otherwise agreed in writing.
- (c) Unless otherwise agreed in writing storage charges will be billed on either a split month basis or an anniversary date basis.
- (d) If storage charges are on a split month basis, the storage month is a calendar month. A full month's storage charge will apply on all Goods received between the first and 15th day, inclusive, of a calendar month. One-half month's storage charge will apply on all goods received between the 16th and the last day, inclusive, of a calendar month. A full month's storage charge will apply on all Goods in storage on the first day of the next and each calendar month thereafter on all Goods the remaining in storage.
- (e) If storage charges are on an anniversary date basis, the storage month shall extend from the date the Goods are received in one calendar month to, but not including, the same date of the next month. If there is no corresponding date in the next month, the storage month shall end on the last day of said next month. A full month's storage charge will apply when the Goods are received and an additional monthly storage charge shall apply on each successive storage month on all Goods then remaining in storage.
- (f) Rates quoted by weight will, unless otherwise specified, be computed on gross weight, and 2,200 pounds shall constitute a ton. Rates do not include any taxes, tariffs, duties, assessments or similar charges imposed upon the Goods while in the possession of ColdHub, all of which shall be the sole responsibility and expense of Storer.

SECTION 6 – HANDLING CHARGES:

- (a) Handling charges cover only the ordinary labor and duties incidental to receiving and delivering unitized Goods at warehouse dock during normal warehouse hours but do not include loading and unloading unless otherwise agreed in writing.

- (b) A charge in addition to the regular handling charges will be made for any work other than as specified in subsection 6(a).
- (c) When Goods are ordered out in quantities less than that in which received. ColdHub may make an additional charge for each other or each item of an order.
- (d) Delivery by ColdHub of less than all units of any Lot or less than all the fungible Goods stored for Storer shall be made without subsequent sorting except by special arrangement and subject to an additional charge.
- (e) ColdHub may assess an additional charge when Goods, designated for freezer storage are received at temperatures above 50 Fahrenheit.

SECTION 7 – TRANSFER OF TITLE; DELIVERY:

- (a) Instructions by Storer to transfer Goods to the account of another are not effective until the written instructions are delivered to and accepted by ColdHub. A charge will be made for each such transfer and for any rehandling of Goods deemed by ColdHub to be required thereby. Logistics reserves the right not to deliver or transfer Goods to or for the account of another except upon receipt of written instructions properly signed by Storer.
- (b) Storer may furnish written instructions authorizing ColdHub to accept telephone orders for delivery. In such case, (i) ColdHub may require that each telephone order be confirmed by Storer in writing within 24 hours, and (ii) accuracy of any telephone order shall be at the risk of Storer. ColdHub and its affiliates shall not be liable for any loss resulting from a delivery made pursuant to a telephone order, whether or not so authorized, unless ColdHub failed to exercise reasonable care.
- (c) ColdHub shall have a reasonable time to make delivery after Goods are ordered out and shall have a minimum of thirty (30) business days after receipt of a delivery order in which to locate any misplaced Goods.
- (d) If ColdHub has exercised reasonable care and is unable, due to causes beyond its reasonable control, to affect delivery before expiration of the current storage period, the Goods shall be subject to storage charges for each succeeding storage period until delivery is affected.
- (e) All instructions and requests for delivery or transfer of Goods are received subject to satisfaction of all Charges and all liens and security interests of ColdHub and its affiliates.
- (f) Storer shall hold ColdHub and its affiliates harmless from and indemnify them for claims of others asserting superior right to Storer to ownership or possession of the Goods. Noting herein shall preclude ColdHub or its affiliates from exercising any other remedy available to them under the law to resolve such claims. All Losses relating in any way to any such claims shall be charged to Storer, shall become part of Charges, and shall be secured by the lien created by this Warehouse Receipt.
- (g) On outbound shipments, Storer may furnish a checker to verify load and count; otherwise, ColdHub' record of load and count shall be conclusive.
- (h) When Storer requests ColdHub to arrange for transportation of Goods but does not specify a particular carrier. ColdHub, on its behalf, may select any carrier in its sole discretion. STORER SHALL BE RESPONSIBLE FOR ALL CHARGES OF CARRIERS. ALL CLAIMS BY STORER RELATING IN ANY WAY, TO TRANSPORTATION OF GOODS ARE NOT COLDHUB' RESPONSIBILITY AND STORER AGREES TO PURSUE ALL SUCH CLAIMS DIRECTLY AGAINST THE CARRIER AND SHALL HOLD COLDHUB HARMLESS FROM AND AGAINST ANY AND ALL SUCH CLAIMS.**

SECTION 8 – OTHER SERVICES AND CHARGES:

- (a) Other services rendered in the interest of Storer or the Goods are chargeable to Storer. Such services may include but are not limited to: furnishing of special warehouse space or material; repairing, re-couping, sampling, weighing, repiling or inspecting the Goods; compiling statements;

making collections, furnishing revenue stamps; reporting or recording marked weights or numbers; handling railroad expense bills; and handling shipments.

- (b) All Charges hereunder constitute commercial accounts and are due and payable upon receipt of the invoice thereof. **ALL CHARGES NOT PAID WITHIN FIFTEEN (15) DAYS FROM THE DATE OF BILLING ARE SUBJECT TO AN INTEREST CHARGE FROM SUCH DATE UNTIL PAID AT THE LESSER OF TWO PERCENT (2%) PER MONTH OR HIGHEST RATE PERMITTED BY LAW.**
- (c) Storer may, subject to insurance regulations and reasonable limitations imposed by ColdHub, inspect the goods stored in the warehouse under this Warehouse Receipt when accompanied by an employee of ColdHub whose time is chargeable to Storer.
- (d) In the event of actual or threatened damage to the Goods, or any portion thereof, Storer shall pay all reasonable and necessary costs of protecting and preserving the Goods and the clean up and disposal of damaged or destroyed Goods. When such costs are attributable to goods and property of one or pro rata basis as determined by ColdHub in its reasonable discretion.
- (e) ColdHub shall supply dunnage bracing and fastenings where it deems it appropriate on outbound shipments and the cost thereof is chargeable to Storer.
- (f) Any additional costs incurred by ColdHub in unloading, storing and handling damaged Goods are chargeable to Storer.
- (g) A charge in addition to regular storage and handling rates will made for bonded storage.
- (h) All storage, handling and other services may be subject to minimum charges.
- (i) Storer agrees to hold ColdHub and its affiliates harmless from and indemnify them against all Losses incurred by ColdHub and its affiliates in connection with the storage, handling and disposition of the Goods received hereunder, including claims and lawsuits to which ColdHub or its affiliates are made a party relating in any way to its performance under this Warehouse Receipt unless arising directly and exclusively from ColdHub' gross negligence.

SECTION 9 – LIABILITY AND LIMITATION OF DAMAGES:

- (a) **COLDHUB AND ITS AFFILIATES SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY LOSS OR DESTRUCTION OF OR DAMAGE TO THE GOODS, HOWEVER CAUSED, UNLESS SUCH LOSS, DAMAGE OR DESTRUCTION ARISES DIRECTLY AND EXCLUSIVELY FROM THEIR FAILURE TO EXERCISE SUCH CARE IN REGARD TO THE GOODS AS A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES. COLDHUB AND ITS AFFILIATES SHALL NOT BE LIABLE FOR ANY LOSS OR DESTRUCTION OF OR DAMAGE OF GOODS THAT COULD NOT HAVE BEEN AVOIDED BY THE EXERCISE OF SUCH CARE. ALL OVERAGES DURING ANY PHYSICAL INVENTORY SHALL BE NETTED AGAINST SHORTAGES IN SAID PHYSICAL INVENTORY ACROSS PRODUCT LINES AND ALL NET OVERAGES AS A RESULT OF ANY PHYSICAL INVENTORY SHALL BE CARRIED FORWARD AND/OR BACKWARD TO OFFSET PRIOR AND/OR FUTURE NET PHYSICAL INVENTORY SHORTAGES.**
- (b) ColdHub and Storer agree that the duty of care referred to in subsection 9(a) does not require ColdHub to provide or maintain a sprinkler system at any warehouse. Each party's other costs and expenses shall be borne by the party incurring them.
- (c) Unless specifically agreed to in writing, ColdHub shall not be required to store Goods in a humidity-controlled environment or be responsible for tempering Goods.
- (d) **COLDHUB SHALL NOT BE RESPONSIBLE FOR DETENTION OR DEMURRAGE OR DELAYS IN LOADING OR UNLOADING TRAILERS OR CARS OR DELAYS IN OBTAINING CARS FOR OUTBOUND SHIPMENT UNLESS SUCH DETENTION, DEMURRAGE OR DELAY WAS CAUSED DIRECTLY AND EXCLUSIVELY BY COLDHUB FAILURE TO EXERCISE REASONABLE CARE.**
- (e) **IN THE EVENT OF LOSS OR DESTRUCTION OF OR DAMAGE TO GOODS FOR WHICH COLDHUB AND/OR ANY OF ITS AFFILIATES ARE LEGALLY LIABLE, STORER DECLARES THAT COLDHUB AND ITS AFFILIATES' TOTAL, INDIVIDUAL AND COLLECTIVE LIABILITY FOR DAMAGES SHALL BE LIMITED TO THE LESSER OF THE FOLLOWING: (1) THE ACTUAL COST TO STORER OF REPLACING,**

OR REPRODUCING THE LOST, DAMAGED, AND (OR DESTROYED GOODS TOGETHER WITH TRANSPORTATION COSTS TO WAREHOUSE, (2) THE FAIR MARKET VALUE OF THE LOST, DAMAGED, AND/OR DESTROYED GOODS ON THE DATE STORER IS NOTIFIED OF LOSS, DAMAGE AND/OR DESTRUCTION, OR (3) \$0.50 PER POUND FOR SAID LOST, DAMAGED, AND/OR DESTROYED GOODS; PROVIDED, HOWEVER THAT WITHIN A REASONABLE TIME AFTER RECEIPT OF THIS WAREHOUSE RECEIPT, STORER MAY, UPON WRITTEN REQUEST INCREASE COLDHUB' LIABILITY ON PART OR ALL GOODS IN WHICH CASE AN INCREASED CHARGE WILL BE MADE BASED UPON SUCH INCREASED VALUATION; AND FURTHER PROVIDED THAT NO SUCH REQUEST SHALL BE VALID UNLESS MADE BY STORER AND ACCEPTED IN WRITING BY COLDHUB BEFORE LOSS, DAMAGE OR DESTRUCTION TO ANY PORTION OF THE GOODS HAS OCCURRED.

- (f) The liability referred in Section 9(e) shall be Storer's exclusive remedy against ColdHub and its affiliates for any claim or cause of action whatsoever relating to loss or destruction of or damage to Goods and shall apply to all claims including inventory shortage and mysterious disappearance claims unless Storer proves by affirmative evidence that ColdHub converted the goods to its own use. Storer lay upon any presumption of conversion imposed by law. **IN NO EVENT SHALL STORER BE ENTITLED TO INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY TYPE DESCRIPTION.**

SECTION 10 – NOTICE OF CLAIM AND FILING OF ACTION:

- (a) **NEITHER COLDHUB NOR ITS AFFILIATES SHALL BE LIABLE FOR ANY TYPE WITH RESPECT TO GOODS UNLESS SUCH CLAIM IS PRESENTED IN WRITING WITHIN A REASONABLE TIME, WHICH SHALL IN NO EVENT EXCEED FIFTEEN (15) DAYS FROM EARLIER OF: (1) THE DATE COLDHUB DELIVERED THE GOODS; OR (2) THE DATE WHEN STORER LEARNED, OR IN THE EXERCISE OF REASONABLE CARE SHOULD HAVE LEARNED, OF THE LOSS, DAMAGE, DESTRUCTION OR OTHER EVENT OR CONDITION GIVING RISE TO THE CLAIM.**
- (b) As a condition to making any claim and as a condition precedent to filling any suit, Storer shall provide ColdHub with a reasonable opportunity to inspect the Goods which are the basis of Storer's claim.
- (c) **NO LAWSUIT OR OTHER ACTION MAY BE MAINTENED BY STORER OR OTHERS AGAINST COLDHUB OR ITS AFFILIATES WITH RESPECT TO THE GOODS UNLESS A WRITTEN CLAIM HAS BEEN MADE WITHIN THE TIME PERIOD SET FORTH IN SUBSECTION 10(a) AND UNLESS STORER HAS PROVIDED COLDHUB WITH A REASONABLE OPPORTUNITY TO INSPECT GOODS AS PROVIDED IN SUBSECTION 10(b) AND UNLESS SUCH ACTION IS COMMENCED WITHIN THREE (3) MONTHS AFTER THE EARLIER OF: (1) THE DATE COLDHUB DELIVERED THE GOODS; OR (2) THE DATE WHEN STORER LEARNED, OR IN THE EXERCISE OF REASONABLE CARE SHOULD HAVE LEARNED, OF THE LOSS, DAMAGE, DESTRUCTION OF OTHER EVENT OR CONDITION GIVING RISE TO THE CLAIM.**

SECTION 11 – INSURANCE:

Goods are not insured by ColdHub, or its affiliates and the storage rates do not include insurance unless ColdHub has agreed, in writing, to obtain such insurance for the benefit of Storer.

SECTION 12 – LIEN AND SECURITY INTEREST:

STORER GRANTS TO COLDHUB ("WAREHOUSEMAN") A FIRST PRIORITY GENERAL WAREHOUSE LIEN UPON AND SECURITY INTEREST IN THE GOODS and on the proceeds thereof for all Charges including all charges for storage, handling, transportation (including demurrage and terminal charges and all transportation charges identified in this Warehouse Receipt), insurance, labor and other charges present or future with respect to the Goods, advances or loans by ColdHub in relation to the Goods

and for expenses necessary for preservation of the Goods or reasonably incurred in their sale pursuant to law. Storer further grants Warehouseman a lien on the Goods for all such charges, advances and expenses in respect to any other property stored by Storer in any warehouse owned or operated by Warehouseman or its affiliates wherever deposited and without regard to whether or not said other property is still in storage.

SECTION 13. FORCE MAJEURE:

Neither Storer nor ColdHub shall be liable to the other for default in the performance or discharge of any duty or obligation under this Agreement when caused by acts of God, hurricanes, tidal waves, flood, tornadoes, cyclone, wind storm, earthquake, public enemy, civil commotion, strikes, labor disputes, work stoppages or other difficulties within the workforce, failure to provide power by the utility provider, intentional or malicious acts of third persons or any other organized opposition, corruption, depredation, accidents, explosions, fire, water sprinkler leakage, moths, vermin, insect, or any kind of infestation, seizure under legal process, embargo, prohibition of import or export of Goods, closure of public highways, railways, airways or shipping lanes, governmental interference or regulations, or other contingencies, similar or dissimilar to the foregoing, beyond the reasonable control of the affected party. Upon the occurrence of such an event the party seeking to rely on this provision shall promptly give written notice to the other party of the nature and consequences of the cause. If the cause is one which nevertheless requires ColdHub to continue to protect the Goods, Storer agrees to pay the storage or similar charges associated with ColdHub's obligation during the continuance of the force majeure. All Goods are stored, handled, and transported at Store's sole risk of loss, damage, or delay caused by any of the above.

Furthermore, in addition to any other rights ColdHub shall have under this Warehouse Receipt, in case an event of force majeure occurs as mentioned in this section, such as a failure to provide power (or any other utility) to the ColdHub's warehouse by the utility provider, both Parties agree that ColdHub may request Storer to immediately remove any Goods that, in ColdHub's opinion, may deteriorate due to the lack of such utility or utilities. For the avoidance of doubt, Storer would have a three (3) day period to remove any Goods from ColdHub's warehouse from the date ColdHub's notifies to Storer such event; being understood that ColdHub shall not be liable for any loss, damage or deterioration to the Goods during any event of force majeure affecting ColdHub.

SECTION 14 – MISCELLANEOUS:

- (a) ColdHub' failure to insist upon strict compliance with any provision of this Warehouse Receipt shall not constitute a waiver or estoppel to later demand strict compliance therewith and shall not constitute a waiver or estoppel to insist upon strict compliance with all other provisions of this Warehouse Receipt.
- (b) In the event any section of this Warehouse Receipt or part thereof shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining sections and parts shall not, in any way, be affected or impaired thereby.
- (c) Storer represents and warrants that it either (i) is the lawful owner of the Goods which are not subject to any lien or security interest of others; or (ii) is the authorized agent of the lawful owner and or any holder of a lien or security interest (which lien or security interest is hereby subordinated to the lien and security interest of Warehouseman) and has full power and authority to enter into this Warehouse Receipt. Storer agrees to notify all parties acquiring any interest in the Goods of the terms and condition of this Warehouse Receipt and to obtain, as a condition of granting such an interest, the agreement of such parties to be bound by the terms and conditions of this Warehouse Receipt.
- (d) All notices provided herein may be transmitted by any commercially reasonable means of communication and directed to ColdHub at the following address 331 Corporate Woods Dr., Suite

F1, Magnolia, Texas 7754 on the front hereof and to _____, and to Storer at its last known address.

Storer is presumed to have knowledge of the contents of all notices transmitted in accordance with this subsection 14(d) upon receipt or three (3) days after transmittal, whichever first occurs.

- (e) The interpretation construction and validity of this Warehouse Receipt shall be governed by, and construed in accordance with, the laws of the state in which the warehouse location indicated on the front side of this Warehouse Receipt is located.
- (f) This Warehouse Receipt supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements, representations and undertaking between ColdHub and Storer whether written or oral and shall not be charged, amended or modifies except by written agreement signed by representatives of ColdHub and Storer.

SECTION 15 – ARBITRATION:

In the event that a dispute arising under this Warehouse Receipt cannot be resolved by the parties within thirty (30) days after receipt by one party from the other party of notice of a dispute or such additional time as the parties may agree upon in writing, the matter shall be submitted to the American Arbitration Association (the “AAA”) for resolution. The matter shall be heard before a sole arbitrator in the city nearest the warehouse location on each numbered page entitled “Non-Negotiable Warehouse Receipt” (or Houston, Texas if the dispute does not involve a specific warehouse). The dispute shall be resolved by binding arbitration under the rules and administration of the AAA, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. IN CONSIDERING OR FIXING ANY AWARD UNDER THESE PROCEEDINGS, NEITHER PARTY SHALL BE ENTITLED TO SEEK OR RECOVER INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY TYPE OR DESCRIPTION. The costs of the arbitrations, including any AAA administration fee, arbitrator’s fee, and cost for the use of the facilities during the hearings, shall be borne equally by the parties. Attorney’s fees may be awarded to the prevailing party at the discretion of the arbitrator. Each party’s other costs and expenses shall be borne by the party incurring them.