

- 1. GENERAL TERMS AND CONDITIONS:** These Terms & Conditions (these "T&Cs") apply to and form an integral part of an offer from Anchor Transload LLC ("Anchor") to transload, store, and provide related services (the "Services") with respect to certain products (the "Products") listed on a purchase order, quote, invoice or other similar document (the "Order") from or to Customer (Anchor and Customer are individually a "Party" and, collectively, the "Parties"). Once accepted, the Order, these T&Cs, and any other documents listed in the Order shall constitute the complete and exclusive agreement (the "Agreement") between the Parties. In the event of any conflict or inconsistency between the Order, these T&Cs, and any other part of the Agreement, these T&Cs shall govern. No other documents, conditions, understandings, agreements, assignments, purchase orders, confirmations, or acknowledgments purporting to modify or vary the terms of these T&Cs shall be binding upon the Parties unless the same shall be made in writing and signed by an authorized signatory of both Parties. Customer will be deemed to have accepted these T&Cs either by (a) execution and return hereof, (b) electronic or emailed acceptance of these T&Cs, or (c) Anchor's receipt of the Products, whichever occurs first; provided, however, that if none of these events occur, and Customer does not reject these T&Cs within three days of receipt, these T&Cs and the Agreement will be deemed accepted.
- 2. ACCEPTANCE:** Anchor's agreement to provide the Services is expressly conditioned upon Customer's acceptance of these T&Cs. Any terms and conditions proposed or stipulated by Customer shall not apply, not even in addition to these T&Cs, and any applicability is expressly excluded and rejected.
- 3. PRODUCT SPECIFICATIONS:** Customer will be responsible for providing the Products in accordance with specifications provided by or on behalf of Customer to Anchor (the "Specifications"), as well as applicable industry standards and all applicable federal and state regulations. Anchor may inspect and/or test Products at any time for conformance with the Specifications and any other applicable standards. If the Product does not meet the Specifications or is otherwise defective ("Non-Conforming Product"), Anchor may reject the Product and return it to Customer at Customer's expense. Should defects be latent and not observable upon visual examination, and the Product is subsequently commingled with other products, delivered to a third party, and/or used in finished goods, Customer shall be responsible for all claims associated with any damage caused by the Non-Conforming Product either to commingled products, third parties or to finished goods containing the Non-Conforming Product in addition to other remedies provided herein. Customer agrees to provide to Anchor, prior to or at the time of delivery to Anchor, all certifications, guaranties, and other documents regarding and verifying Product compliance with the Specifications, including a Certificate of Analysis (a "COA"). Anchor may produce its own COA based on a weighted-average analysis according to its standard operating procedures and may provide either or both COAs to third parties on a need-to-know basis.
- 4. PRICE:** The price of the Services is as stated in the Order or as otherwise agreed to by the Parties, including in any applicable Anchor rate sheet or other pricing documentation provided to Customer. Anchor shall invoice fees due from Customer under these T&Cs as Services are performed or as otherwise agreed to. Customer shall make full payment of such invoiced amounts within 30 days of receipt of the invoice. Anchor reserves the right to change pricing at any time.
- 5. PRODUCT DELIVERY:** Customer is solely responsible for the delivery of Products to the Anchor facility. Anchor shall not be responsible for any demurrage or any preceding loss, damage, or expense in the nature of or in lieu of demurrage where such is due to delay in loading or unloading of Customer's Products, except if such delay is caused by the gross negligence or willful misconduct of Anchor. Customer is solely responsible for any other damages and fees arising or resulting from the handling, nature, or weight of inbound or outbound Products, whether via railcar, truck or otherwise, that is not caused by the gross negligence or willful misconduct of Anchor.
- 6. TITLE AND RISK OF LOSS:** Title to and risk of loss of the Products provided to Anchor by or on behalf of Customer under these T&Cs shall at all times remain with Customer, including any Product shrink associated with Anchor performing the Services.
- 7. COMPLIANCE WITH LAWS:** Customer represents and warrants that all Products are manufactured, tested, processed, packaged, labeled, certified, marked, weighed, inspected, shipped, and sold in compliance with all applicable industry standards and federal, state, and local laws and regulations, including the California Safe Drinking Water and Toxic Enforcement Act of 1986, and any similar state law, and with all applicable export control, import, customs and economic sanctions laws, executive orders and regulations of the United States and other governments. Customer shall give prompt written notice to Anchor of any action by a governmental agency concerning or affecting any Products delivered under these T&Cs and of any facts Customer learns indicating that Products are not in compliance with any laws, regulations, or standards. Customer shall promptly provide Anchor with a written description of the nature of such noncompliance and the procedures adopted by Customer to remedy such noncompliance. Customer warrants that the Products are not prohibited under any applicable laws, statutes, rules, or regulations from being introduced into interstate commerce. Anchor reserves the right to cancel any Order if it reasonably believes that the Products to be delivered do not comply with the requirements of this Section.
- 8. CUSTODY, CARE, AND STORAGE:** Anchor will be responsible for the custody, care, and storage of the Products while in Anchor's possession or control. Anchor may commingle Customer's Products with products from third parties (or its own products) in storage; in such event, Anchor agrees to use commercially reasonable efforts to track and document such stored Products appropriately. Anchor will be responsible for maintaining accurate and current tracking information of the Products in its possession until the Products are delivered to Customer's customer. Upon reasonable request by Customer, Anchor shall make such records available to Customer for inspection.
- 9. INDEMNIFICATION:** Customer, its parents & affiliates hereby agree to defend, indemnify and hold harmless Anchor, its affiliates, related companies, and its customers, and their respective directors, officers, shareholders, and employees, contractors and agents (collectively, the "Anchor Parties") against all claims, causes of action, liabilities, fines, penalties, investigations, recalls, direct, indirect or consequential losses, expenses or damages (including pure economic loss, loss of profits, loss of business, loss of goodwill and similar losses) and other costs and expenses (including reasonable fees and expenses of an attorney of Anchor's choosing), awarded against or incurred or paid by Anchor Parties arising out of, or resulting in any way from these T&Cs, including: (a) claims related to the breach of any warranty provided herein or implied by law or delay in performance, (b) claims for property damage, personal injury or death, (c) claims that the Products infringe, or their importation, use or resale, infringe on the intellectual property rights of any other person, (d) claims based upon the quality and/or condition of the Products, (e) claims by governmental agencies, and (f) claims arising out of the negligent or intentional wrongdoing of Customer or its servants, employees, independent contractors, agents or representatives. Customer's indemnification obligation shall include any and all costs and expenses incurred by the Anchor Parties in connection with such claims, including reasonable fees and expenses of an attorney of the Anchor Parties' choosing.
- 10. LIMITATION OF LIABILITY:** ANCHOR DISCLAIMS ANY LIABILITY FOR THE ACTIONS OR OMISSIONS OF ALL STORAGE PROVIDERS, DELIVERY SERVICES, CARRIERS, OR OTHER SERVICE PROVIDERS ENGAGED BY OR ON BEHALF OF CUSTOMER. EXCEPT WITH RESPECT TO BREACHES OF

CONFIDENTIALITY AND INDEMNITY OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY FINES, PENALTIES, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS OR SAVINGS, LOST REVENUES OR BUSINESS INTERRUPTION) ARISING OUT OF THESE T&Cs OR THE OBLIGATIONS PERFORMED BY SUCH PARTY UNDER THESE T&Cs, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION IN THESE T&Cs, ANCHOR'S TOTAL LIABILITY (WHETHER ARISING FROM CONTRACT, TORT, OR STRICT LIABILITY) TO CUSTOMER FOR ANY CLAIM MADE IN CONNECTION WITH THESE T&Cs OR ITS SUBJECT MATTER SHALL NOT EXCEED THE LESSER OF THE AMOUNT INVOICED FOR SERVICES FOR THE SPECIFIC PRODUCT, LOT OR SHIPMENT THAT IS SUBJECT TO THE APPLICABLE CLAIM.

**11. INSPECTION AND REJECTION OF NONCONFORMING PRODUCTS:** Anchor has the right to inspect the Products on or after the delivery date. Anchor, at its sole option, may inspect all or a sample of the Products and may reject all or any portion of the Products if it determines the Products are nonconforming or defective. If Anchor rejects any portion of the Products, Anchor has the right, effective upon written or emailed notice to Customer, to (a) reject the Products, in whole or in part, and return them to Customer at Customer's own risk and expense, (b) require Customer to rework or replace the rejected Products, (c) refuse to accept any subsequent delivery of the Products which Customer attempts to make, (d) claim damages for any costs, losses or expenses incurred by Anchor or its other customers which are in any way attributable to Customer's breach of these T&Cs, or the failure to deliver the Products on the due date specified herein including, but not limited to, charges levied against Anchor by its customers for late delivery, and (e) any other remedies or damages allowed at law or equity. Any inspection or other action by Anchor under this Section shall not reduce or otherwise affect Customer's obligations under these T&Cs, and Anchor shall have the right to conduct further inspections after Customer has carried out its remedial actions. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Anchor's discovery of the noncompliance of the Products with the foregoing warranties.

**12. TERMINATION:** Either Party may terminate these T&Cs with written notice provided to other Party (a) upon a material breach of these T&Cs by the other Party, provided that such breaching Party shall have a 30-day cure period or (b) if the other Party becomes insolvent, files a petition for bankruptcy or commences or has commenced against it, proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. Anchor may also terminate these T&Cs if (A) the law changes to prevent fulfillment, (B) Customer is added to the FDA Red List, (C) any adverse findings arise during a regulatory inspection of Customer, or (D) any license or permit of Customer is revoked; provided, however, that should Anchor determine not to terminate these T&Cs but continue the relationship, then Customer shall pay any extra fees or duties incurred by Anchor thereby.

**13. INSURANCE:** During the term of these T&Cs and for a period of three years thereafter, Customer shall, at its own expense, maintain and carry insurance in full force and effect, which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate with financially sound and reputable insurers. Upon Anchor's request, Customer shall provide Anchor with a certificate of insurance from Customer's insurer evidencing the insurance coverage specified in these T&Cs, which shall name Anchor as an additional insured. Customer shall provide Anchor with 30 days' advance written notice in the event of a cancellation or material change in Customer's insurance policy. Except where prohibited by law, Customer's insurance shall (a) provide a waiver of subrogation against Anchor's insurers and Anchor or any indemnified parties and (b) be primary and non-contributory to any policies held by Anchor.

**14. ARBITRATION AND GOVERNING LAW:** If, for whatever reason, the trade and arbitration rules are determined to be unenforceable by a court of competent jurisdiction, these T&Cs shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its conflict of laws provision, and the Parties agree that jurisdiction for any court proceedings arising out of or related to these T&Cs shall lie exclusively in the state or federal courts of Delaware.

**15. ASSIGNMENT, INVALIDITY AND SEVERABILITY:** Neither Party shall assign, delegate, or transfer its rights or obligations in these T&Cs without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided, however, that Anchor may assign or transfer these T&Cs or its rights and obligations hereunder without Customer's consent to an affiliate of Anchor or in connection with a merger, change of control, or acquisition of the assets relating to Anchor or the Anchor facility. Each provision of these T&Cs is severable, and if any provision is finally determined to be invalid, illegal, or unenforceable, the remaining provisions will not be affected.

**16. CONFIDENTIALITY:** Customer agrees that Anchor may disclose Customer information to Anchor customers as specified by Customer, including information disclosed in any of the information disclosed to Anchor by Customer. Without Anchor's prior written consent, Customer, its parents, and affiliates shall not: (a) disclose or use any proprietary or confidential information provided by Anchor for any purpose other than performing these T&Cs, (b) announce, publicize, or discuss with third parties the subject matter of these T&Cs, (c) include Anchor's name or trademarks in any sales materials, or (d) disclose that Anchor is Customer's service provider.

**17. RELATIONSHIP OF THE PARTIES:** The relationship between the Parties is that of independent contractors. Nothing contained in these T&Cs shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have the authority to contract for or bind the other Party in any manner whatsoever. No relationship of exclusivity shall be construed from these T&Cs.

**18. SURVIVAL:** Provisions of these T&Cs, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of these T&Cs.

**19. FORCE MAJEURE:** If either Party is delayed or prevented from the performance of any act required hereunder by reason of the failure of power, riots, insurrection, war, or other unforeseeable events of a like nature ("Force Majeure Event") that is not its fault, or under its control, then the performance of such act will be excused for the period of time during which the Force Majeure Event exists. As a condition precedent, however, the Party seeking to have performance excused on account of a Force Majeure Event must provide written notice to the other Party of the occurrence giving rise to the delay within two business days after its first occurrence. An affected Party shall commence performance as soon as possible after the commencement of the Force Majeure Event.