



## Network Global Logistics, LLC

### Standard Terms and Conditions

The following Standard Terms and Conditions apply to all transactions and dealings with respect to the Network Global Logistics, LLC, NGL Warehouse, LLC or NGL Transport, LLC.

#### Article I. DEFINITIONS

**Section 1.01** “Agreement” shall mean the agreement, as amended from time to time, between NGL (as defined below) and a Customer for warehousing services.

**Section 1.02** “Customer” shall mean the entity that uses the services of NGL (as defined below).

**Section 1.03** “NGL” shall mean as applicable Network Global Logistics, LLC, NGL Warehouse, LLC or NGL Transport, LLC, each an Oregon limited liability company, whomever is providing services to the Customer.

**Section 1.04** “Term” shall have the meaning set forth in the Agreement.

#### Article II. SERVICES; SCHEDULE OF RATES

**Section 2.01** Customer hereby engages NGL as an independent contractor during the Term (as hereinafter in the Agreement), to perform those services listed in the Agreement (the “Services”). NGL agrees to perform the Services and acknowledges that it is not the agent or representative of Customer for any purpose whatsoever other than to perform the Services.

**Section 2.02** Customer agrees to pay NGL for Services provided pursuant to the Agreement at the rates set forth therein (the “Schedule of Rates”).

**Section 2.03** If Customer fails to make timely payment of any sums due to NGL under the Agreement, then, in addition to any other right or remedy of NGL, Customer shall pay to NGL a late payment charge at the rate of one and one-half percent (1.5%) per month or the highest rate allowed by applicable law, whichever is lower, on the amount outstanding and unpaid, including any disputed amounts that later are agreed, or determined, to be owed by Customer. Such late

payment charge shall be calculated from the date that such unpaid charges become due and shall be compounded monthly for the period during which any such charges remain unpaid.

**Section 2.04** Customer shall notify NGL in writing of any disputed billing within thirty (30) calendar days after Customer's receipt of the applicable invoice and any portion of the billing not in dispute shall remain due and payable within thirty (30) days after Customer's receipt of the applicable invoice.

**Section 2.05** If Customer requests that NGL perform additional services not identified in the Services or the Schedule of Rates, the parties shall mutually agree in writing upon the charges to be charged and paid and applicable terms and conditions with respect to the performance of such services. Under no circumstances shall NGL shall be obligated to perform such additional services until the parties have agreed upon the charges applicable to such additional services and have executed and delivered corresponding amendments to the Agreement

### **Article III. ADJUSTMENT OF SCHEDULE OF RATES**

**Section 3.01** Annually on or before ninety (90) days prior to the end of the year, NGL shall provide written notice to Customer of proposed changes to the Schedule of Rates. Such changes to the Schedule of Rates shall become effective on the first of the following year.

**Section 3.02** Customer acknowledges that NGL has determined the rates and charges for the Services provided to Customer based on, among other information, projected order volume for Goods (as defined in Section 4.02), projected warehouse space required to store Goods, current and projected cost estimates for rendering the Services and current governmental regulations applicable to NGL's operations, all as set forth in the Agreement (collectively, the "Pricing Assumptions").

**Section 3.03** NGL shall have the right to request in writing re-negotiation of the Schedule of Rates due to any changes in the Pricing Assumptions that require NGL to incur increased expenses to provide the Services, including, but not limited to, changes in Customer requirements, additional services requested by Customer pursuant to Section 2.05 of the Agreement, unforeseen circumstances such as changes to existing law or permit requirements, the enactment of future laws or permit requirements, changes or enactments of Federal or state regulations, import or export fee increases, or increased airline charges. In the event that NGL determines that there has been any change to the Pricing Assumptions, it will notify Customer in writing of the specific changed circumstance(s) and the consequence(s) of such changes and the parties shall immediately negotiate the Schedule of Rates to address such change(s).

**Section 3.04** Price revisions pursuant to Section 3.01 shall be a minimum of two percent (2%) annual increase, but if in the annual increase is in excess of the twelve percent, (12%), 2.02 and

2.03 shall be agreed between the parties in writing and such agreement shall state the commencement and validity dates for the changed Schedule of Rates. If the parties fail to agree on revisions to the Schedule of Rates within thirty (30) days after such notification, either party may terminate the Agreement upon sixty (60) days prior written notice to the other party.

#### **Article IV. WAREHOUSE SERVICES**

**Section 4.01 Deposit of Goods.** The Agreement and the Standard Term and Conditions stated herein shall apply to all Goods deposited from time to time by Customer or its designated agent with NGL. Any actions to be taken by Customer hereunder may be taken by Customer or such agents as it may designate in writing or by email to NGL.

**Section 4.02 Storage Charges.** Storage charges for warehousing storage space become applicable upon the date that NGL accepts care, custody and control of Customer personal property, including without limitation, inventory (the "Goods"), regardless of unloading date or the date that Customer is notified of receipt of the Goods. Billing for storage charges shall be based upon either assigned square footage reserved or actual square footage used as outlined in the Agreement. All storage charges shall be billed at the beginning of the calendar month of storage.

**Section 4.03 Service Charges.** NGL shall invoice Customer on a weekly basis for all other Services performed by NGL during the preceding weekly period. All charges shall be due and payable within thirty (30) calendar days of the date of receipt of each invoice.

**Section 4.04 Receipt and Warehousing.** NGL will receive and stock Goods delivered to NGL by Customer at various warehouses owned and operated by NGL, its affiliates or subcontractors (collectively, "NGL Warehouses"), as more specifically identified in the Agreement. Upon NGL's receipt of Goods, NGL will enter into the NGL inventory management system information concerning the shipment received (i.e., part numbers, number of parts, etc.). NGL will assume that all items received conform to the descriptions furnished by Customer. NGL will not issue written warehouse receipts to acknowledge receipt of Customer's goods into storage. Instead it will advise Customer electronically of the receipt of goods into NGL Warehouses. The parties agree that such electronic receipt satisfies the requirements of Article 7 of the Uniform Commercial Code with respect to the issuance of warehouse receipts, and that the terms of the Agreement shall apply to each deposit of goods as if such terms were a part of the electronic receipt sent to Customer.

**Section 4.05 Storage Facilities and Services.** Storage facilities within NGL Warehouses will be open to inspection by a Customer representative, upon reasonable notice to NGL, during normal business hours. All Goods will be maintained with part numbers clearly marked and organized in such a manner that individual parts can be located quickly with either manual or

computer generated systems. All Goods will be stored inside NGL Warehouses. Storage services will be provided in accordance the Agreement (“Schedule of Rates”).

**Section 4.06 Reports.** NGL will provide Customer with the activity reports specified in the Agreement. NGL will maintain complete and accurate records of the Services performed pursuant to the Agreement for a period of three (3) years after the completion of such Services. Records relating to the performance of Services pursuant to the Agreement shall be made available to Customer upon reasonable notice.

**Section 4.07 Audit.** Customer shall have the right to audit the “cost plus” or “additional charges” invoice amounts within ninety (90) days following receipt of the invoice provided that Customer provides three (3) business days written notice to NGL of its intent to audit. Payment terms for invoices which Customer elects to audit remain thirty (30) days from issue; Customer may not withhold payment for invoices during the audit process.

**Section 4.08 Inspections.** NGL shall take delivery of the Goods at the NGL Warehouse and inspect the packaging to determine whether there is any visible sign of damage to the goods that occurred during shipping. If NGL discovers any such visible sign of damage to the goods, NGL shall promptly report the damage to Customer and promptly notify the shipping company accordingly. Otherwise, any other inspections will be conducted only based on Customer’s prior request and at the additional charges mutually agreed to by NGL and Customer.

**Section 4.09 Handling Charges.**

- (a) **Handling Charges Generally.** Handling charges cover ordinary labor and duties incident to receiving goods at the NGL Warehouse door, placing goods in storage, and returning of goods to the NGL Warehouse door. Handling charges include the unloading of regular trailers at the NGL Warehouse door. Handling charges will be billed at the rates set forth in the Agreement.
- (b) **Extraordinary Handling Charges.** Labor for unloading goods from other than standard dry van trailers and/or ocean containers at the NGL Warehouse door, additional expenses incurred by NGL in unloading damaged goods, and additional expenses in unloading trailers (i.e. shifted loads) not at the NGL Warehouse door are subject to charge.

**Section 4.10 Demurrage and Delays.** NGL shall not be liable for demurrage, delays in unloading inbound trailers, or delays in obtaining and loading trailers for outbound shipment if such delays are caused by circumstances outside NGL’s control.

**Section 4.11 Special Services and Charges.**

- (a) Special Services Generally. Special services, other than ordinary handling and storage, which are provided in the interest of Customer and at Customer's request, shall be charged to Customer. NGL shall use reasonable efforts to obtain prior approval, either in oral electronic or written format, before engaging in such special services. These extra services may relate to and include, but are not limited to, using special warehouse space or material, repairing, sampling, weighing, re-piling, inspecting, physical warehouse checking, compiling stock statements, collecting fees, reporting marked weights or numbers, and handling railroad expense bills.
- (b) Additional Charges. Dunnage, bracing, and packing materials or other special supplies, may be provided for Customer at a charge in addition to the NGL's cost.

**Section 4.12 Removal Of Goods From Warehouse(s); Warehouseman's Lien**

- (a) Goods shall only be removed from NGL Warehouses upon the instructions of a Customer Authorized Representative (as defined below), which instructions shall be in writing or by electronic transmission, pursuant to procedures mutually agreed upon by the parties. NGL may act upon such instructions received from any Customer Authorized Representative.
- (b) All shipments of Goods from NGL Warehouses shall be at the expense of Customer.
- (c) Upon any termination or expiration of the Agreement, Customer shall pay all outstanding bills in full prior to the release of any Goods from the applicable NGL Warehouse. NGL reserves the right to withhold such portion of Goods with market value equal to the outstanding bills, as reasonably determined by NGL. These charges will also include any fees associated with the delivery of such Goods to Customer or otherwise in accordance with Customer's directions.
- (d) Pursuant to Section 7-209 of the Uniform Commercial Code in effect in the State of Colorado from time to time (the "Uniform Commercial Code"), Customer hereby grants to NGL a security interest in and a lien upon the Goods for (i) all storage charges with respect to the Goods, including without limitation, insurance, labor or other charges, present or future, in relation to the Goods and for expenses necessary for preservation of the Goods or reasonably incurred in their sale pursuant to law, (ii) the repayment of moneys advanced and interest, and (iii) all other amounts due to NGL under the Agreement. Customer hereby authorizes NGL to file such financing statements, amendments and continuation statements as NGL may deem necessary or appropriate from time to time. Upon the failure of Customer to pay amounts due to NGL under the

Agreement when due (after giving effect to the applicable grace period, if any), NGL shall have all of the rights and remedies available to NGL as a “warehouseman” (as defined in the Uniform Commercial Code) under the Uniform Commercial Code, and all rights and remedies available to NGL under the Agreement and in law and equity.

- (e) Upon receiving release document(s) authorizing shipment of the goods, NGL shall, unless the Customer requests otherwise, arrange for the transportation of the Goods and Customer will be billed according to NGL’s standard shipping charges for shipments of similar type. Freight costs for shipments using carriers other than NGL will be charged by the carrier to Customer directly.

**Section 4.13 Removal of Hazardous Goods.** If the Goods are hazardous to persons, or the storage facilities, or other property and NGL had no notice of such quality or condition at the time of their deposit, then NGL shall promptly notify the Customer of the condition of such goods and request that the Customer remove such Goods from the NGL Warehouse. In the event that the Customer does not remove such Goods within thirty (30) days of receipt of such notice, NGL may sell the Goods at public or private sale without advertisement upon providing reasonable notification to all persons known by NGL to claim an interest in the goods. If NGL is unable to sell the goods despite reasonable effort, it shall be entitled to dispose of them in any lawful manner and shall incur no liability by reason of the disposition. Pending such disposition, sale or return of the goods, NGL may remove the Goods from the NGL Warehouse and shall incur no liability whatsoever by reason of such removal.

**Section 4.14 Non-Business Hours.** Goods received or delivered during other than usual business hours (5:00 am – 10:00 pm. Monday – Friday local time), at Customer’s request, will be subject to an additional charge as specified in the Agreement.

**Section 4.15 Duty Of Care And Limitation Of Liability**

- (a) NGL shall exercise such reasonable care in regards to any Goods stored or otherwise handled by NGL hereunder as a reasonably careful business person would exercise under like circumstances. NGL shall indemnify and hold harmless Customer and its shareholders, officers, employees, successors and assigns from and against any and all claims, actions, causes of action, damages or other liability directly or indirectly related to the breach by NGL of any covenants contained in the Agreement including, without limitation any failure by NGL to maintain the standard of care set forth herein and any damage to goods of Customer while NGL bears the risk of loss thereof.
- (b) Customer declares that damages caused as a result of loss or injury to the Goods for which NGL is responsible under the Agreement will be limited to Fifty Cents (\$0.50) per pound. In addition, Customer agrees that such liability shall be limited to Five Hundred

Dollars (\$500) per occurrence. Customer agrees to and does hereby waive all right of subrogation by and on behalf of its insurers for damages exceeding the amounts stated above.

- (c) It is the intention of the parties that the above limitations conform to the requirements of Article 7 of the Uniform Commercial Code as adopted in Colorado. If the “per occurrence” limitation is held not to so conform, then the parties agree that a limitation apply to the occurrence that divides the above dollar limitation per occurrence by the total number of pounds of Goods lost or injured in the occurrence; with the resulting figure being an agreed upon limitation applicable to each such pound of Goods lost or injured.
- (d) Claims (as defined below) under this Article made by Customer and all other persons must be presented in writing to NGL within a reasonable time, and in no event longer than either sixty (60) days after delivery of the goods by NGL or sixty (60) days after the Customer of record or the last known holder of a negotiable warehouse receipt is notified by NGL that loss or injury to part or all of the Goods has occurred, whichever time is longer.

#### **Section 4.16 Inventory; Shrinkage Allowance**

- (a) A physical inventory of the Customer’s Goods at all NGL Warehouses shall be conducted by NGL, at the Customer’s expense, each year on the anniversary date of the Agreement or such other date agreed to by the parties. NGL shall cycle count the inventory every thirteen (13) weeks at NGL’s expense. A Customer Authorized Representative may be present during any such inventory.
- (b) If stock differences are found in any count, NGL will list gains as receipts, and losses as deductions, thus correcting the book record to agree with the actual count.
- (c) The replacement values provided by Customer under the Agreement shall be used to determine a net money balance with gains and losses for the period netted together without regard to commodity group or the individual NGL Warehouse where the Goods are stored. If the result is an inventory shortage, a shrinkage allowance of one and one-half percent (1.5%) of the value of the stored Goods at the time of the physical inventory will be deducted. NGL shall be liable for the inventory shortage, less the shrinkage allowance, in an amount not to exceed Twenty Five Thousand Dollars (\$25,000). NGL will be liable for loss above such limitation only if it is established that the loss was a result of NGL’s failing to exercise reasonable care as required under Section 4.15(a). If such failure is established the limitation provisions of Section 4.15(b) shall apply.

- (d) For purposes of this Section 4.16, lost Goods shall not include Goods shipped in error to a Customer location, or to a location designated by Customer, which cannot be located by either party.
- (e) Upon receipt of written notice from NGL, Customer shall promptly refund to NGL the amount of any payments made by NGL to Customer for lost Goods pursuant to this Section 4.16 if such lost Goods are found or otherwise accounted for within one hundred and twenty (120) days of the physical inventory. If any lost parts for which NGL has previously remitted payment to Customer are found or otherwise accounted for after such one hundred and twenty (120) day period, NGL shall offer such lost Goods to Customer for return of the amount previously paid by NGL with respect to such lost Goods. If Customer elects not to accept return of such lost Goods, title to such lost Goods (excluding software) shall transfer to NGL and it shall have the right to sell for scrap value only (not into Customers market place) or otherwise dispose of such lost Goods in any manner it determines appropriate.

## **Article V. OBLIGATIONS OF CUSTOMER UTILIZING WAREHOUSE SERVICES**

**Section 5.01** Customer shall use only the transportation services arranged by NGL for all “same day” and “next flight out” shipments of Goods originating at an NGL Warehouse. These, and other shipments transported by NGL or its affiliates, shall be charged to Customer in accordance with the prevailing price of NGL or its affiliates based upon type of goods, destination, delivery time and other factors. Customer shall contact NGL for an estimate prior to shipment.

**Section 5.02** Prior to the shipment of any Goods to any NGL Warehouse, Customer shall provide NGL with an advanced shipping notice setting forth information regarding shipping details for such Goods, including mode of shipping services, Airway Bill Number and Goods detail (“ASN”). The mode of transmission of the ASN shall be determined and mutually agreed upon by both parties. Goods shall be arranged and delivered to the appropriate NGL Warehouse in a segregated manner, properly marked and packaged to withstand ordinary warehouse handling.

**Section 5.03** Concurrently with or prior to the delivery of any Goods to the applicable NGL Warehouse, Customer shall provide NGL with a document listing each item of Goods to be delivered or delivered by part and serial number and a Material Safety Sheets (“MSDS”) (if applicable), adequate description, weight and replacement values; provided that in order to conform to NGL’s inventory system, the format of such information shall be subject to review and approval by NGL.

**Section 5.04** From time to time, provide NGL in writing with a current listing of Customer representatives authorized to place orders and issue instructions with respect to the removal of Goods the applicable NGL Warehouse (each a “Customer Authorized Representative”), and appropriate security codes as agreed upon.

**Section 5.05** Provide to NGL any special instructions, procedures or requirements with respect to the storage and transportation of the Goods. The current special instructions, procedures and requirements (the “Customer Specific Requirements” or “SOPS”), are in the Agreement. NGL shall not be liable for any loss or damage as a result of acting in accordance with the SOPS. Customer shall from time to time, as necessary, provide NGL with current SOPS

**Section 5.06** Tender for Storage and Release of Goods.

- (a) Storage Specifications. Customer or its designated agent shall properly mark and pack for handling all Goods before delivery to NGL. NGL may, at its discretion, store Goods in bulk or assorted lots unless Customer furnishes at or prior to delivery, specific written instructions for goods to be kept and accounted for separately and the type of storage desired.
- (b) NGL Acceptance. NGL may refuse to accept goods if the goods tendered for storage or other services do not conform to the description accompanying the Goods, or if Goods are tendered prior to the Effective Date. If NGL accepts such Goods, Customer agrees to the rates and charges set forth in the Agreement and to all the terms stated in the Agreement.
- (c) Shipment to Warehouse. Customer shall not ship Goods to NGL with NGL as the named consignee. If, in violation of the Agreement, Goods are shipped to NGL with NGL as the named consignee, Customer shall notify carrier in writing prior to shipment that the named consignee is NGL who has no beneficial title or interest in the property being shipped, and that Customer shall defend, indemnify and hold harmless NGL from any and all claims for unpaid transportation charges, including undercharges, demurrage, detention or charges of any nature, in connection with Goods being shipped. A copy of the same shall be sent to NGL prior to the shipment. If Customer fails to notify carrier as required by this Section 5.06, NGL shall have the right to refuse acceptance of the Goods and shall not be liable or responsible for any loss, injury or damage of any nature to, or related to, the Goods.
- (d) Accurate Description of Goods; Order Information. Customer or its designated agent will provide NGL with information concerning the stored Goods which is reasonably accurate, complete and sufficient to allow NGL to comply with all laws and regulations concerning the storage, handling and transporting of the stored goods. Customer will

indemnify and hold NGL harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which NGL pays or incurs as a result of Customer failing to fully discharge this obligation.

## **Article VI. INSURANCE**

NGL shall obtain and maintain the following types of insurance:

**Section 6.01** Commercial general liability insurance including premises/operations, broad form property damage, independent contractors, and contractual liability covering NGL'S obligations hereunder for bodily injury and property damage, excluding Customer's Inventory, with a combined single limit of not less than One Million Dollars (\$1,000,000) for each occurrence;

**Section 6.02** Workers' Compensation insurance in statutory amounts covering NGL and its employees and employer's liability insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000) per accident/disease;

**Section 6.03** Warehouseman's legal liability insurance with minimum limits of One Million dollars (\$1,000,000.00). This insurance insures only NGL's legal liability as a warehouseman and is not insurance on the Goods. Customer shall provide all risk insurance on its Goods; and

**Section 6.04** Motor cargo insurance in the amount of Fifty Thousand Dollars/One Hundred Thousand Dollars/One Hundred Thousand Dollars (\$50,000/\$100,000/\$100,000), to cover loss or damage to Goods while being transported by NGL.

**Section 6.05** NGL shall provide Customer with properly completed Certificate(s) of Insurance prior to commencement of any Services. Each certificate shall provide for thirty (30) days notice to Customer of any reduction or cancellation.

## **Article VII. FORCE MAJEURE**

Neither party shall be deemed to be in breach of the Agreement, or otherwise be liable to the other, by reason of any delay in performance or nonperformance of any of its obligations, other than the payment of money, under the Agreement, caused by an event or occurrence beyond its control or remedy (a "Force Majeure Event"), including, without limitation, Acts of God, natural disasters, acts of civil or military authority, government priorities, fire, floods, epidemics, quarantine, energy crises, strikes, wars, riots, terrorist acts or accidents, provided storage charges shall continue to accrue during the continuation of the Force Majeure Event. Immediately upon discovery of a Force Majeure Event, the affected party shall immediately notify the other party. The date for performance of any obligation under the Agreement which is delayed by a Force Majeure Event, shall be suspended for a period equal to the delay caused

by such event, but in no event shall such suspension extend the Term (as hereinafter defined). If such Force Majeure Event results in a delay that continues for a period exceeding seven (7) days or more, the parties shall meet in order to agree upon the best solution under the circumstances. In the event no reasonable solution can be agreed upon, either party may give the other written notice of termination of the Agreement, which termination shall be effective thirty (30) days after such notice, unless the Force Majeure Event has been removed or obviated within such thirty (30) day period; provided that any termination of the Agreement pursuant to this Article VII shall not relieve Customer of its obligation to pay any amounts due to NGL as of the date of such termination.

#### **Article VIII. NOTICE OF CLAIM; LIMITATION OF ACTIONS**

No legal action may be initiated or maintained by Customer against NGL for loss or damage to Goods unless: (i) timely written notice of claim has been provided to NGL as provided above in Section 4.15 (d) and (ii) such legal action is commenced within one (1) year after the date written notice is given to Customer that NGL has rejected the claim in whole or in part.

#### **Article IX. CONFIDENTIALITY**

**Section 9.01** Each party agrees that during the Term or Renewal Period of the Agreement and for a period of two (2) years from the termination of the Agreement, such party shall use the same means it uses to protect its own confidential proprietary information, but in any event not less than reasonable means, to prevent the disclosure and to protect the confidentiality of (i) written information received from the other party; and (ii) oral or visual information which is accurately summarized in writing and provided to the other party in such written form promptly after such oral or visual disclosure (“Confidential Information”).

**Section 9.02** Confidential Information shall not include information which belongs to the recipient party or is (i) already known by the recipient party without an obligation of confidentiality other than under the Agreement; (ii) publicly known or becomes publicly known through no unauthorized act of the recipient party; (iii) rightfully received from a third party; (iv) independently developed by the recipient party without use of the other party’s Confidential Information; (v) disclosed without similar restrictions to a third party by the party owning Confidential Information; (vi) approved by the other party for disclosure; or (vii) required to be disclosed pursuant to a requirement of a governmental agency or law of the United States of America or a state thereof, or any governmental or political subdivision thereof, so long as the party required to disclose the information provides the other party with timely prior notice of such requirement.

**Section 9.03** Each party may use Confidential Information received from the other party only in connection with the execution of the Agreement, and may disseminate such Confidential Information only to its employees having a need for access to such Confidential Information in connection with their employment with such party and with respect to whom such party takes steps, no less rigorous than those it takes to protect its own proprietary information, but in any event not less than reasonable means, to prevent such employees from acting in a manner inconsistent with the terms of the Agreement.

**Section 9.04** The obligations of the parties under this Article IX shall survive the termination of the Agreement.

**Article X. Noninterference With Business**

**Section 10.01** During the Term and each Renewal Period and for a period of two (2) years immediately following the termination or expiration of the Agreement, neither NGL nor Customer shall solicit or induce any employee, independent contractor or agent of the other party to terminate or breach an employment, contractual or other relationship with the other party.

**Section 10.02** Customer agrees not to use the services of any NGL subcontractor for a period of one (1) year after the Agreement is terminated.

**Section 10.03** The obligations of the parties under this Article X shall survive the termination of the Agreement.

**Article XI. Taxes**

Customer shall be solely responsible for and indemnify and hold NGL and its subsidiaries, directors, officers, employees, agents, representatives and subcontractors (collectively, the “NGL Indemnities”) harmless from and against any and all sales, use, personal property, gross receipts, excise, franchise and business taxes, together with any penalties, fines or interest thereon, imposed on such NGL Indemnities by any federal, state or local government or taxing authority with respect to the storage and shipment of Goods and/or any other Services performed by NGL pursuant to the Agreement that, per the taxing entity are the Customers obligations.

**Article XII. Term and Termination**

**Section 12.01** The Agreement shall have an initial term as set forth in the Agreement (the “Term”), beginning on the date of the Agreement and shall automatically renew for successive

one year terms (each a “Renewal Period”), unless either party terminates the Agreement in accordance with this Section.

**Section 12.02** NGL may terminate the Agreement at any time upon any failure by Customer to pay any undisputed amount when due any amount due to NGL, whenever any such failure remains uncured for a period of thirty (30) days after written notice to Customer of such failure.

**Section 12.03** Either party may terminate the Agreement at any time by delivering to the other party written notice, following a material breach of the Agreement (other than a breach for non-payment) by the other party which is not cured within sixty (60) days.

**Section 12.04** Either party may terminate the Agreement by delivering to the other party written notice of such termination at least ninety (90) days prior to the expiration of the Term or a Renewal Period.

**Section 12.05** Upon any termination or expiration of the Agreement for any reason, Customer shall instruct NGL and pay NGL, in advance, in accordance with the Schedule of Rates for the removal of Goods from the NGL Warehouses, and Customer shall pay all outstanding invoices. If the Agreement is terminated by Customer, for any reason, prior to the end of the Term, the Customer shall indemnify NGL Indemnities for any costs or losses arising from any leases, equipment or other costs incurred by NGL on behalf of the Customer per the Customer’s request.

### **Article XIII. Indemnification**

**Section 13.01** Each party (the “Indemnitor”) shall indemnify and hold the other party and any affiliated, controlling or subsidiary entities of such party, and the directors, employees, officers, agents, subcontractors, licensors and suppliers of all of them (in each case, the “Indemnitee”) harmless from and against all liabilities, claims, suits, actions, fines, damages, losses, costs and expenses (including reasonable attorneys’ fees) (“Damages”) arising out of injury to or death of any person, or damage to or loss or destruction of any tangible personal property or improvements to real property (except for lost or damaged Goods where liability is governed by Article III or V) to the extent caused by or resulting from such party’s willful misconduct or negligent acts or omissions or those of its employees or agents. If the Indemnitor and the Indemnitee have, through their negligent acts or omissions, jointly contributed to any of the matters to be indemnified hereunder, the indemnification hereunder shall only be to the extent that the same was not caused by the negligent acts or omissions of the Indemnitee.

**Section 13.02** Customer shall indemnify and hold NGL harmless from and against all Damages arising out of, or in connection with any product liability claims arising from the Goods and which Damages are not directly caused by NGL. NGL shall indemnify and hold Customer harmless from Damages arising from the Goods to the extent caused directly by NGL. NGL

shall not be liable for any loss of profit or special, indirect, or consequential damages of any kind that are not within control of NGL. This Article XIII is not intended to otherwise limit NGL's obligations to Customer under the Agreement, including, without limitation, as provided for in Article III or V. The Indemnities shall provide the Indemnitor with prompt written notice of any Claim and shall provide defense against or settlement of such Claim.

**Section 13.03** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFITS, BUSINESS OPPORTUNITIES OR CUSTOMER GOODWILL IN CONNECTION WITH THE AGREEMENT, WHETHER CUSTOMER OR NGL AS THE CASE MAY BE, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING.

#### **Article XIV. Miscellaneous**

**Section 14.01 Assignment.** The rights and liabilities set forth in the Agreement shall inure to the benefit of and be binding on, NGL and Customer and their respective successors and assigns. NGL shall have the right to subcontract the performance of Services pursuant to the Agreement to one or more third parties, provided that NGL will be responsible for the performance of all Services so subcontracted and for the acts and omissions of such third parties in accordance with the provisions of the Agreement. NGL shall have the right to assign the Agreement to any commonly controlled entity. Customer surrenders its power and right to assign this Agreement and any assignment or purported assignment is void ab initio.

**Section 14.02 Amendments.** The Agreement or these Standard Terms and Conditions shall not be amended or modified except by a written instrument signed by both parties.

**Section 14.03 Notices.** Any notice required or permitted to be given hereunder shall, except where specifically provided otherwise, be given in writing to the persons listed in the Agreement by personal delivery, registered or certified mail, return receipt requested, or any national recognized overnight delivery service. The date upon which such notice is so personally delivered (or if given by registered or certified mail, the date that is three (3) business days from sending, or if by national overnight delivery service, the date of receipt) shall be deemed to be the date of such notice, irrespective of the date thereon:

**Section 14.04 Entire Agreement.** The Agreement and these Standard Terms and Conditions, constitute the entire Agreement of the parties with respect to the subject matter hereof, and each party warrants and represents that it has not relied upon or been influenced by any representation which is not contained within the Agreement and these Standard Terms and Conditions.

**Section 14.05 Severability.** If any provision of the Agreement or these Standard Terms and Conditions is found by any court or competent authority to be unlawful, invalid or unenforceable under present or existing law, such provision shall be severed and the remaining provisions of the Agreement shall nonetheless remain lawful, valid and enforceable. The parties agree to replace any such unlawful, invalid or unenforceable provision with a valid provision that most closely approximates the intent and economic effect of the unlawful, invalid or unenforceable provision.

**Section 14.06 Waiver.** No single or partial exercise of any right, power or remedy or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any other right, power or remedy arising under the Agreement or otherwise.

**Section 14.07 Construction.** The language in all provisions of the Agreement and these Terms and Conditions shall in all cases be construed simply, according to its fair meaning, and not strictly for or against any of the parties hereto. Without limitation, there shall be no presumption against any party on the ground that such party was responsible for drafting the Agreement or any part thereof.

## **Article XV. Controlling Law**

**Section 15.01** The Agreement and these Terms and Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Colorado, without regard to the conflicts of law principles hereunder. It is the intention of the parties that Article 7 of the Uniform Commercial Code, as adopted in Colorado, shall apply to the Agreement. The parties agree and intend that all of the terms of the Agreement, but particularly the statutory requirements concerning issuing warehouse receipts, the limitation of damages for loss or injury to the stored goods, and the warehouseman's lien provisions, conform to and satisfy the provisions of the statute.

**Section 15.02 Forum Selection.** The federal courts and regulatory agencies located in Denver County, Colorado shall have exclusive jurisdiction and venue of any action or proceeding arising out of or related to the negotiation, execution, delivery, performance or breach of the Agreement or any relationship or transaction between the parties. The parties hereby consent to such exclusive jurisdiction and venue and to service of process. The parties hereby waive any objection to such jurisdiction and venue, whether based upon the nature of the forum, inconvenience or other basis.

**Section 15.03 Waiver of Jury Trial.** The parties waive all right to trial by jury in any action, suit or proceeding brought to resolve a any dispute, whether sounding in contract, tort or otherwise, among NGL and Customer arising out of, in connection with, related to or incidental to the

relationship established between them in connection with the Agreement or these Standard Terms and Conditions or any of the related documents or transactions related thereto.

**Section 15.04 Conflict of Terms.** If any terms in the Agreement directly conflict with these Standard Terms and Conditions, the Agreement shall control.