

WAREHOWZ™ TERMS OF SERVICE

The website located at <https://warehousez.com/> (the “Site”) is a copyrighted work belonging to WAREHOWZ™, LLC (“WAREHOWZ™”, “us”, and “we”). WAREHOWZ™ provides a service that connects individuals or entities who have available warehouse space (“Warehouse Operator(s)” or “you”) with individuals or entities who desire to store Goods (defined below) in a warehouse (“Depositor(s)” or “you”) (collectively, the Site and the services offered therein, the “Site Services”). WAREHOWZ™, Warehouse Operator(s) and Depositor(s) are sometimes referred to individually as a “party” and collectively as the “parties”.

By using the Site, opening an Account (defined below) or using or receiving any Site Services, you agree to be bound by these terms of service (the “Agreement”) and any future amendments and additions to this Agreement as specified in Section 12.1 below. If you are using the Site on behalf of an entity, you represent and warrant that you are an authorized representative of such company, entity, or organization with the authority to bind it to this Agreement.

THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE, INCLUDING THE AMOUNT OF ANY RECOVERABLE DAMAGES.

WAREHOWZ™ OFFERS INFORMATION ABOUT, AND A METHOD TO OBTAIN, WAREHOUSE STORAGE SPACE AND WAREHOUSE RELATED SERVICES (COLLECTIVELY, THE “WAREHOUSE SERVICES”) PROVIDED BY WAREHOUSE OPERATORS. WAREHOWZ™ DOES NOT ITSELF PROVIDE WAREHOWZ™ SERVICES, AND DOES NOT ACT AS A WAREHOUSE OPERATOR OR DEPOSITOR. SUBJECT TO THE LIMITED EXCEPTIONS BELOW, WAREHOWZ™ HAS NO RESPONSIBILITY OR LIABILITY FOR ANY WAREHOUSE SERVICES REQUESTED OF AND/OR PROVIDED BY USERS OF THE SITE SERVICES.

1. Site services description

1.1 General

WAREHOWZ™ helps connect Warehouse Operators and Depositors for the storage of, and provision of related materials and handling services for, tangible personal property owned or controlled by a Depositor at a Warehouse (collectively, the “Goods”) by providing a platform whereby Warehouse Operators can post details about a particular warehouse operated by the Warehouse Operator (a “Warehouse”) for potential use by a Depositor. Depositors will pay Warehouse Operators for services and storage using the WAREHOWZ™ platform. “User” means any user of the Site Services, and may be a Warehouse Operator or a Depositor.

1.2 Standard Project Agreement and the Mini Contract

Warehouse Operators may market and advertise a Warehouse through the Site Services by posting certain information about a Warehouse (a "Warehouse Listing"). Depositors may review Warehouse Listings via the Site Services and submit a Project Spec for a particular Warehouse or for a Warehouse to be assigned by the platform by using the Site Services' online reservation tools (a "Project Spec"). To create a Warehouse Listing, initiate a Project Spec or start a Project (a "Project") you must agree to a "Standard Project Agreement" (by click-wrap consent, e-signature, or signing a paper version).

Warehouse Operators and Depositors will then agree to scope, performance metrics and rates in the Mini Contract which functions as an addendum to the Standard Project Agreement (a "Mini Contract"). This Mini Contract will be signed online using the WAREHOWZ™ platform.

The Mini Contract is only negotiated between the Warehouse Operator and the Depositor. As WAREHOWZ™ is not party to the Mini Contract, its rights, roles, privileges, obligations and responsibilities cannot be amended in this addendum. As both the Warehouse Operator and the Depositor are party to the Mini Contract, they may mutually agree to terms that impact their roles and responsibilities as defined in the Standard Project Agreement as long as these changes do not prejudice WAREHOWZ™.

Each project, comprised of the Standard Project Agreement with its associated Mini Contract addendum will be a unique agreement by and among the applicable Warehouse Operator, Depositor, and will be separate from all other Project Agreements you may enter into with other Warehouse Operators or Depositors, as the case may be.

1.3 Conflict

If there is a conflict between the terms of this Agreement and the terms of the Standard Project Agreement with the Mini Contract Addendum, the terms of this Agreement will control, unless agreed to in writing by WAREHOWZ™.

The terms agreed to by the Warehouse Operator and the Depositor in the Standard Project Agreement with its Mini Contract addendum govern their rights and responsibilities for a specific Project but this Agreement sets the overarching framework within which the Standard Project Agreement and associated Mini Contract sit. WAREHOWZ™ can at its sole discretion grant exceptions to this Agreement for a specific Project if it communicates these exceptions in writing to both the Warehouse Operator and Depositor before the project commences.

2. Licenses

2.1 Accounts

In order to use certain features of the Site Services, you must register for an account with WAREHOWZ™ (“Account”) and provide certain information as prompted by the registration form. You represent and warrant that: (a) all required registration information you submit is truthful and accurate; and (b) you will maintain the accuracy of such information. You are responsible for maintaining the confidentiality of your Account login credentials and are fully responsible for all activities that occur under your Account. You agree to immediately notify WAREHOWZ™ of any unauthorized use, or suspected unauthorized use, of your Account or any other breach of security. WAREHOWZ™ cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements. You agree that any street address you provide with your Account information will be maintained and up to date, and that delivery of papers by first class U.S. mail, email or notice via Account messaging functionality constitutes service of process (1) for any dispute with WAREHOWZ™ and (2) for any other notice relating to your use of the Site Services.

Warehouse Operators who have registered for an account grant WAREHOWZ™ permission to help them market their entire network of warehouse facilities to Goods Depositors using the platform. For select Warehouse Operators WAREHOWZ™ may, at its sole discretion, assign an account manager to create warehouse listings on behalf of the warehouse operator and publish them to the WAREHOWZ™ marketplace. If the Warehouse Operator does not desire assistance with this activity, they may opt out by sending an email to sales@warehowz.com or by clicking the “hide listing” button on the platform. Warehowz Operators are solely responsible for confirming the accuracy of all warehouse listings before signing a contract on the platform with a Goods Depositor that has shown interest in the listed facility.

2.2 Site

Subject to the terms of this Agreement, WAREHOWZ™ grants you a non-transferable, non-exclusive license to use the Site for your internal business purposes (e.g., no resale, service bureau, co-branding or white labeling) during the term of this Agreement.

2.3 Certain Restrictions

The rights granted to you in this Agreement are subject to the following restrictions: (a) you may not license, sell, transfer, assign, distribute, host, or otherwise commercially exploit the Site Services; (b) you may not modify, make derivative works of, reverse compile or reverse engineer any part of the Site Services; (c) you may not access the Site Services in order to build a similar or competitive service; and (d) except as expressly stated herein, no part of the Site Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Any future release, update, or other addition to the functionality of the Site Services is subject to the terms of this Agreement. All copyright and other proprietary notices on any content on the Site Services must be retained on all copies thereof which you have been authorized by WAREHOWZ™ to make.

3. Ownership

3.1 Ownership

Excluding your User Content (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, service marks and trade secrets in the Site Services (“IP Rights”) are owned by WAREHOWZ™ or WAREHOWZ™’s licensors. The provision of the Site Services pursuant to the limited license granted to you herein does not transfer to you or any third party any ownership rights, title or interest in or to such IP Rights. WAREHOWZ™ and its licensors reserve all rights not specifically granted in this Agreement.

3.2 Modification

WAREHOWZ™ reserves the right, at any time, to modify, suspend, or discontinue the Site Services or any part thereof without notice; provided, however, that if WAREHOWZ™ suspends or discontinues essential and material functionality which materially impedes your ability to perform your obligations pursuant to an outstanding accepted Project, WAREHOWZ™ will use reasonable efforts to provide you prior notice of such suspension or discontinuance. Notwithstanding the foregoing, WAREHOWZ™ may immediately suspend or discontinue the Site Services immediately without notice to (a) comply with any applicable law or regulatory or other governmental order, or (b) minimize WAREHOWZ™’s legal exposure to a third party threat, in which case WAREHOWZ™ will use reasonable efforts to provide you notice of such action as soon as reasonably practicable.

3.3 Feedback

If you provide WAREHOWZ™ any feedback, suggestions, bug reports, system errors, and other information or ideas regarding the Site Services (“Feedback”), you hereby assign to WAREHOWZ™ all rights in the Feedback and agree that WAREHOWZ™ shall have the right to use such Feedback and related information in any manner without any obligation to you. If you agree to participate in any case studies, you agree that information you provide in connection with the case study is deemed Feedback and that WAREHOWZ™ may use your name in connection with such Feedback.

4. User Content

4.1 User Content

“User Content” means any and all information, data, and content, other than that provided by WAREHOWZ™, which a User submits to, or uses with, the Site Services. User Content includes the information provided by a User in connection with the submission of a Warehouse Listing or Project Spec. You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that makes you or any third party personally identifiable. For the avoidance of doubt, User Content may include third party content you submit. You agree not to submit third party content unless you have the consent of the applicable third party owner of such content. You may not state or imply that your User Content is in any

way provided, sponsored or endorsed by WAREHOWZ™. You acknowledge and agree that we are not responsible for verifying the accuracy or truthfulness of any User Content and we make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content.

4.2 License

By submitting any content (including without limitation, any photograph, words, pictures, or symbols) or information to us in connection with your registration for and use of the Site Services, you grant us a worldwide, non-exclusive, royalty-free license, sub-licensable through multiple tiers, to use, reproduce, display, distribute, and promote such content and information in any form, in all media now known or hereinafter created and for the purpose of providing the Site Services to you. We may modify your content and information as necessary to provide the Site Services to you. The license granted in this paragraph shall terminate when this Agreement terminates or you cancel your Account.

4.3 Acceptable Use Policy; Privacy Policy

You may not post or submit any content that (a) infringes the copyright, trademark, patent or other intellectual property rights of any person, or which infringes on any person's right of personality or publicity; (b) is defamatory; (c) is misleading, untrue, inaccurate or false; or (d) provides a link to any other websites. Certain information you may post (e.g., personally identifiable information) may be subject to our Privacy Policy located at <https://warehowz.com/privacy>, which is incorporated herein by reference.

4.4 No Obligation to Post Content

After you have received services obtained through the Site Services, you will have the opportunity to rate your experience and leave additional feedback. We have no obligation to make publicly viewable or accessible any content that you provide to us or through the Site Services. In addition, we may edit (as necessary to provide the Site Services, e.g., to reformat your content for display on the Site), remove or delete any content that you submit to us or through the Site Services. Moreover, we reserve the right (but have no obligation) in our sole discretion to review any User Content, investigate, and/or take appropriate action against you (including removing or modifying your User Content, terminating your Account in accordance with this Agreement, and/or reporting you to law enforcement authorities) if you violate this Agreement or otherwise create potential liability for us or any other person.

5. Term and termination

This Agreement will remain in full force and effect while you use the Site Services or otherwise maintain an active Account unless terminated in accordance with this Section 5. WAREHOWZ™ may terminate this Agreement immediately, with or without notice, if you breach this Agreement ("Cause"). WAREHOWZ™ may terminate this Agreement without Cause upon forty-eight (48) hours prior notice to you. Upon termination of this Agreement, your right to access your Account and to use the Site Services will terminate immediately (except where WAREHOWZ™ terminates this Agreement without Cause and you have an existing Project, in which case your right to access your Account and to use the Site Services will terminate upon the completion of the Project).

WAREHOWZ™ will not have any liability whatsoever to you for any termination of this Agreement in accordance with this section, including for termination of your access to your Account or deletion of your User Content. Even after this Agreement is terminated, the following provisions of this Agreement will remain in effect: Sections 2.3 and 3 through 12, and all other provisions that by their nature should survive termination.

6. INDEMNITY

6.1 By You

You will defend, indemnify and hold WAREHOWZ™ and its officers, directors, employees, and agents (each a “WAREHOWZ™ Indemnitee”) harmless, including the payment of the WAREHOWZ™ Indemnitee’s reasonable attorneys’ fees, of and from any claim or demand made by any third party due to or arising out of your: (i) use of the Site Services; (ii) User Content; (iii) interaction with any other User; (iv) violation of this Agreement; or (v) violation of any applicable law or regulation. You will not to settle any claim that imposes any obligation or liability on WAREHOWZ™ without the prior written consent of WAREHOWZ™ (such consent shall not be unreasonably withheld, conditioned or delayed). WAREHOWZ™ will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

6.2 By WAREHOWZ™

WAREHOWZ™ will defend, indemnify and hold you and your officers, directors, employees, and agents (each, a “Customer Indemnitee”) harmless, including the payment of each Customer Indemnitee’s reasonable attorneys fees, of and from any claim or demand made by any third party due to or arising out (i) any claim that the Site Services infringes the intellectual property rights of the third party asserting the claim; (ii) WAREHOWZ™’s violation of this Agreement; or (iii) WAREHOWZ™’s violation of any applicable law or regulation. WAREHOWZ™ will not settle any claim that imposes any obligation or liability on you without your prior written consent (such consent shall not be unreasonably withheld, conditioned or delayed). You will use reasonable efforts to notify WAREHOWZ™ of any such claim, action or proceeding upon becoming aware of it.

7. WARRANTIES

You represent, warrant and covenant that: (a) you have the right and authority to enter into this Agreement; (b) by entering into this Agreement, you will not violate, conflict with or cause a material default under any other agreements; and (c) you will comply with all applicable laws, rules and regulations in connection with your use of the Site Services.

8. WARRANTY DISCLAIMERS AND RELEASE

THE SITE SERVICES ARE PROVIDED “AS-IS” AND “AS AVAILABLE” AND WE EXPRESSLY DISCLAIM ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE SITE SERVICES: (A) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (B) WILL BE AVAILABLE ON AN

UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (C) WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE; OR (D) RESULT IN ANY REVENUE, PROFITS, OR COST REDUCTION. THE SITE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

WE DO NOT ASSESS THE SUITABILITY, LEGALITY, REGULATORY COMPLIANCE, QUALITY OR ABILITY OF ANY WAREHOUSE OPERATORS OR DEPOSITORS, AND WE MAKE NO WARRANTY REGARDING THE FOREGOING. BY USING THE SITE SERVICES, YOU OR YOUR WAREHOUSE OR GOODS, AS APPLICABLE, MAY BE EXPOSED TO SITUATIONS THAT ARE POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL, UNSAFE OR OTHERWISE OBJECTIONABLE. YOUR USE OF THE SITE SERVICES IS AT YOUR OWN RISK. YOUR INTERACTIONS WITH OTHER USERS AND THIRD PARTIES ARE SOLELY BETWEEN YOU AND SUCH USERS OR THIRD PARTIES. YOU AGREE THAT WAREHOWZ™ WILL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE INCURRED AS THE RESULT OF ANY SUCH INTERACTIONS. IF THERE IS A DISPUTE BETWEEN YOU AND ANY USER OR THIRD PARTY, WE ARE UNDER NO OBLIGATION TO BECOME INVOLVED.

YOU HEREBY RELEASE WAREHOWZ™ (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, INSURERS AND ASSIGNS) OF AND FROM, AND HEREBY WAIVE AND RELINQUISH, EACH AND EVERY PAST, PRESENT AND FUTURE DISPUTE, CLAIM, CONTROVERSY, DEMAND, RIGHT, OBLIGATION, LIABILITY, ACTION AND CAUSE OF ACTION OF EVERY KIND AND NATURE (INCLUDING PERSONAL INJURIES, DEATH, AND PROPERTY DAMAGE), ARISING FROM YOUR USE OF THE SITE SERVICES, AND/OR IN ANY WAY RELATED TO OTHER USERS OR THIRD PARTIES. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

9. LIMITATION ON LIABILITY

9.1 General

IN NO EVENT SHALL WAREHOWZ™ OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, INSURERS AND ASSIGNS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES (COLLECTIVELY "CONSEQUENTIAL DAMAGES") ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO YOUR USE OR PROVISION OF WAREHOWZ™ SERVICES, OR YOUR USE OF, OR INABILITY TO USE, THE SITE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH CONSEQUENTIAL DAMAGES. NOTWITHSTANDING

ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY AND OUR OFFICERS', DIRECTORS', EMPLOYEES', AGENTS', SUCCESSORS', INSURERS' AND ASSIGNS' LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SITE SERVICES FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO YOUR ACTUAL PROVABLE DAMAGES NOT TO EXCEED THE LESSER OF (A) ONE THOUSAND DOLLARS (\$1,000) OR (B) AMOUNTS YOU HAVE PAID WAREHOWZ™ IN THE PRIOR TWELVE (12) MONTHS (IF ANY). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

10. Third party sites, content and services

The Site Services might contain links to third party websites and services offered by third parties, including payment processing third parties for any charges for services (collectively, "Third Party Sites"). WAREHOWZ™ provides these Third-Party Sites only as a convenience and does not endorse, warrant, or make any representations with respect to Third-Party Sites. You use all Third-Party Sites at your own risk. When you access a Third-Party Site, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. We do not collect any banking or payment processing information. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Sites.

11. Copyright Policy

WAREHOWZ™ respects copyright law and has procedures in place to address any allegedly infringing content on the Site. If you believe any work of authorship available on the Site infringes your copyright, please refer to the WAREHOWZ™ Copyright Policy.

12. General

12.1 Changes to These Terms of Service

This Agreement, and WAREHOWZ™'s policies relating to the Site Services, are subject to occasional revision, and we will notify you by providing an option to accept the new terms before your next use or sending you an email to the last email address you provided to us[1] (if any), messaging through your Account and/or by prominently posting notice of the changes on the Site. Any changes to this Agreement will be effective upon the earlier of (a) the date you accept the new terms, (b) the date thirty (30) calendar days following our dispatch of an email notice to you (if applicable), or (c) the date thirty (30) calendar days following our posting of notice of the changes on the Site. These changes will be effective immediately for new Users of the Site Services. You are responsible for providing us with your most current email address and for

regularly reviewing this Agreement and the Site for any changes. In the event that the last email address that you have provided us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the email containing such notice will nonetheless constitute effective notice of the changes described in the notice. Continued use of the Site Services following our issuance of notice of such changes shall indicate your acknowledgement of, and agreement to be bound by, such changes.

12.2 DISPUTE RESOLUTION. PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.

- a) Any and all controversies, disputes, demands, counts, claims, or causes of action including the interpretation and scope of this clause, and the arbitrability of the controversy, dispute, demand, count, claim, or cause of action between any of the parties to this Agreement and/or any employee, agent, successor, or assign of any of the parties to this Agreement, regarding or relating to the Site, the Site Services, this Agreement or a Project Agreement, shall exclusively be settled through binding and confidential arbitration.
- b) Arbitration shall be subject to the Federal Arbitration Act and not any state arbitration law. The arbitration shall be conducted before one commercial arbitrator with substantial experience in resolving commercial contract disputes from the American Arbitration Association (“AAA”). As modified by this Agreement, and unless otherwise agreed upon by the parties in writing, the arbitration will be governed by the AAA’s rules for commercial arbitration and, if the arbitrator deems them applicable, the procedures for consumer-related disputes.
- c) You are thus GIVING UP YOUR RIGHT TO GO TO COURT to assert or defend your rights EXCEPT for matters that may be taken to small claims court. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. You are entitled to a FAIR HEARING, BUT the arbitration procedures are SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT.
- d) You and we must abide by the following rules: (1) ANY CLAIMS BROUGHT BY YOU OR US MUST BE BROUGHT IN THE PARTY’S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (2) THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF; (3) in the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, we will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to the cost of litigation; (4) we also reserve the right in our sole and exclusive discretion to assume responsibility for all of the costs of the arbitration; (5) the arbitrator shall honor claims of privilege and privacy recognized at law; (6) the arbitrator’s award shall be final and may be enforced in any court of competent

jurisdiction; (7) subject to the exclusions and waivers in this Agreement or the Project Agreement, the arbitrator may award any individual relief or individual remedies that are permitted by applicable law; and (8) each party pays its own attorneys' fees and costs unless there is an applicable statutory provision that requires the prevailing party to be paid its attorneys' fees and costs, and then in such instance, the attorneys' fees and costs awarded shall be determined by applicable law.

- e) Notwithstanding the foregoing, any party may bring an individual action in small claims court. Further, claims of infringement or misappropriation of the other party's patent, copyright, trademark, or trade secret shall not be subject to this arbitration agreement. Moreover, WAREHOWZ™ or any agent of WAREHOWZ™ (e.g., collections agency) may forego arbitration and initiate a court action to collect outstanding and unpaid amounts owed to WAREHOWZ™. Such claims shall be exclusively brought in the state or federal courts located in Richmond, Virginia; provided however WAREHOWZ™ may bring claims in a different jurisdiction to the extent required to enforce this Agreement. Additionally, notwithstanding this agreement to arbitrate, either party may seek emergency immediate equitable relief before the state or federal courts located in Richmond, Virginia in order to maintain the status quo pending arbitration, and the parties hereby agree to submit to exclusive personal jurisdiction of those courts for such purpose. A request for such interim measures shall not be deemed a waiver of the right to arbitrate.
- f) With the exception of prohibiting arbitration on a class or collective basis, if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Agreement, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however prohibiting arbitration on a class or collective basis is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision shall be null and void, and neither you nor we shall be entitled to arbitration. If for any reason a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in a state or federal court in Richmond, Virginia.
- g) Notwithstanding any provision in this Agreement to the contrary, if we seek to terminate the Dispute Resolution section as included in this Agreement (by exercising our right to modify the Agreement pursuant to Section 12.1 above), any such termination shall not be effective until 30 days after the version of the Agreement not containing the agreement to arbitrate is posted to the Site, and shall not be effective as to any claim of which you provided us with written notice prior to the date of termination.
- h) For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879 or visit the AAA website at <http://www.adr.org>.
- i) Any and all controversies, disputes, demands, counts, claims, or causes of action between any of the parties hereunder and/or any employee, agent, successor, or assign of the parties hereunder, regarding or relating to the Site, the Site Services, this Agreement or a

Project Agreement, shall be governed exclusively by the internal laws of the Commonwealth of Virginia, without regard to its choice of law rules and without regard to conflicts of laws principles except that the arbitration provision shall be governed by the Federal Arbitration Act.

12.3 Force Majeure

Any delay in the performance of any duties or obligations of any party to this Agreement (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the reasonable control of such party.

12.4 Entire Agreement

This Agreement, together with any Project Agreements that have been or are in the future entered into by you as contemplated by Section 1.2 hereof, constitutes the entire agreement between you and us regarding the use of the Site Services and supersedes any prior agreements between the parties. Our failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. Except as otherwise explicitly stated in this Agreement, if any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. This Agreement may be executed in counterparts.

12.5 Independent Service Provider

Your relationship to WAREHOWZ™ is that of an independent service provider or customer, and no party to this Agreement is an agent, joint venturer, legal representative or partner of any other party to this Agreement.

12.6 Assignment

This Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated, or otherwise transferred by you without WAREHOWZ™'s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. The terms of this Agreement shall be binding upon assignees. WAREHOWZ™ may assign this Agreement without consent in connection with a change in control or sale of the Site Services or at least a majority of its assets or outstanding voting securities.

12.7 Copyright/Trademark Information

Copyright © _____ WAREHOWZ™, LLC. All rights reserved. All trademarks, logos and service marks ("Marks") displayed on the Site Services are our property or the property of third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party, which may own the Marks.

12.8 Electronic Communications

The communications between you and WAREHOWZ™ may involve electronic means, whether you send us emails or other electronic messages, or whether WAREHOWZ™ communicates with you via email or other electronic messages. For contractual purposes, you (a) consent to receive communications from WAREHOWZ™ in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that WAREHOWZ™ provides to you electronically (via email or Account messaging) satisfy any legal requirement that such communications would satisfy if they were to be in a hard copy writing.

12.9 Legal Counsel

Each party recognizes that this Agreement is a legally binding contract and acknowledges and agrees that they have had the opportunity to consult with legal counsel of their choice. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis of that party being the drafter of such language. Each party agrees and acknowledges that it has read and understands this Agreement, is entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so.