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TERMS AND CONDITIONS OF WAREHOUSING

These Terms and Conditions apply to all warehousing agreements and contracts. They incorporate every Request for Quote with any warehouseman. If there is any conflict in these Terms and Conditions and those in any Request for Quote or other written contract, then these Terms and Conditions control.

Section 1 — Definitions.

- 1.1. “TRIVERGIX” shall mean TRIVERGIX Group, a Mesa Logistics Group, LLC company.
- 1.2. “WAREHOUSE” shall mean the person or entity retained by TRIVERGIX to provide or arrange for Services as identified in the Request for Quote and includes its officers, directors, employees, and agents while acting within the scope or course of their employment.
- 1.3. TRIVERGIX and WAREHOUSE may sometimes be referred to individually as a “Party” or collectively as the “Parties.”
- 1.4. “Agreement” shall mean these Terms and Conditions and each Request for Quote to which these Terms and Conditions Apply.
- 1.5. “Confidential Information” shall mean (1) customer lists, pricing information, contracts, forms, reporting procedures, service policies and, (2) all trade secrets or confidential information designated as such in writing by TRIVERGIX prior to or at the time any such trade secret or Confidential Information is disclosed by TRIVERGIX to WAREHOUSE. In addition, any other information which is disclosed to WAREHOUSE orally or in writing shall constitute Confidential Information if it would be apparent to a reasonable person in the warehousing industry that such information might be of a confidential nature.
- 1.6. “Customer” shall mean any person or entity that retained TRIVERGIX to procure Services.
- 1.7. “Facilities” shall mean all facilities owned or leased by WAREHOUSE and provided by WAREHOUSE to Customer for use on the Project.
- 1.8. “Project” shall mean the project identified in the Request for Quote and shall include all Services performed by WAREHOUSE for TRIVERGIX or its Customers.
- 1.9. “Request for Quote” shall mean the initial quote or estimate furnished by WAREHOUSE to TRIVERGIX at TRIVERGIX’s request that outlines some details of the Project and its scope including, but not limited to, the Project’s: (1) name and location, (2) address, (3) timeframe, (4) estimated duration, (5) description of materials, (6) estimated volume and number of deliveries, (7) TRIVERGIX’s suggested rate, and (8) WAREHOUSE’s rates.
- 1.10. “Services” shall mean receiving, documenting, storing, handling, delivering, assembling, and placing Materials.
- 1.11. “Storage Period” shall mean the one-month period beginning the day of receipt of any Materials for a Project and extend until the preceding day of the next month. Subsequent one-month periods shall end on the same day of the month as the first period.
- 1.12. “Material” and “Materials” shall mean all items and property described in the Request for Quote and all items and property actually received and stored by WAREHOUSE on behalf of TRIVERGIX or its Customers.
- 1.13. “Warehouse Receiving Report” shall mean the form provided by TRIVERGIX to WAREHOUSE for completion upon receipt of each shipment of Materials and shall confirm the quantity and condition of all Materials received.



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Section 2 – TRIVERGIX’s Responsibilities

- 2.1 Facilities. TRIVERGIX is responsible for selecting and WAREHOUSE shall be solely responsible for leasing and providing the storage facilities that will be operated by WAREHOUSE for use on the Project.
- 2.2 Information from TRIVERGIX. TRIVERGIX shall provide WAREHOUSE with all necessary information concerning the Materials to be stored. The information shall include a description and estimated value of the Materials, the Project location, the anticipated date that the Materials will be shipping to WAREHOUSE, and the approximate duration of storage at WAREHOUSE.
- 2.3 Shipping Information. TRIVERGIX will direct its Customers’ vendors and suppliers to ship the Materials as follows: (WAREHOUSE name) – TRIVERGIX. In the address line, TRIVERGIX will include an identifier(s) to help recognize Materials during the receiving process.
- 2.4 Access. TRIVERGIX shall direct its Customer to provide WAREHOUSE ready and safe access on Project deliveries through driveways and sidewalks to the buildings and through receiving areas, hallways, elevators, floors and rooms where a Project is in progress.
- 2.5 Ownership of Goods. TRIVERGIX has authority to cause the Materials to be stored with WAREHOUSE and otherwise has authority to authorize WAREHOUSE as its Customers’ agent to handle the Materials in accordance with this Agreement.

Section 3 – WAREHOUSE’s Responsibilities

- 3.1 Facilities. WAREHOUSE shall be solely responsible for leasing and/or providing the Facilities and ensuring that Facilities meet the requirements of this Agreement throughout the duration of the Project. WAREHOUSE shall not use new or different Facilities without the written approval of TRIVERGIX. WAREHOUSE agrees that all Facilities shall be fixed structures that shall be clean, dry, modern, and secure. The Facilities must be attended during working hours by professional warehouseman. The Facilities must protect the Materials from insects, vermin, and extreme temperatures and humidity. Outside storage, trailer, or temporary storage and the like are not permissible storage Facilities under this Agreement. The Materials shall not touch outside walls and must be protected from floor moisture and wetness by its own packaging or by pallets, skids, or shelves provided by WAREHOUSE. The Facilities must be equipped with approved fire suppression equipment (i.e., a sprinkler system) and a remotely monitored alarm system. WAREHOUSE may not change any facility approved for original consignment without the written consent of TRIVERGIX. Any violation of this provision by WAREHOUSE is a material breach of the Agreement.
- 3.2 Identification and Inspection of Materials. Upon receipt of Material, WAREHOUSE shall inspect the Material, identify the shipment and confirm the quantity and determine the condition of the Material(s) received, determine the quantify and type (if applicable), prepare a Warehouse Receiving Report and provide a copy of the completed form to TRIVERGIX. WAREHOUSE shall inspect all the shipments received by it for visible carton damage and photograph any damaged cartons. If specifically authorized by TRIVERGIX, WAREHOUSE shall open and inspect all the content for damage and include such photographs with the Warehouse Receiving Report. If WAREHOUSE fails to inspect, photograph, or open the damaged cartons (when authorized to do so), WAREHOUSE agrees it will replace or repair damaged Material found in such cartons. WAREHOUSE will note all damage and shortage on both the Warehouse Receiving Report and the motor carrier’s bill of lading or other freight bill. Upon discovery of damage, WAREHOUSE shall require the motor carrier to perform a formal inspection of the damage to the Material and prepare a report describing the damage. WAREHOUSE will provide copies of the Warehouse Receiving Report, bill of lading or other freight bill, and any other inspection or and claim forms to TRIVERGIX within twenty-four (24) hours of receiving the Material. WAREHOUSE also agrees it will assist the Customer or other owner of the Materials prepare its damage claims with the motor carrier by making all inspection and notation documents available. If WAREHOUSE fails to identify and photograph damage or fails to identify shortage on the Warehouse Receiving Report and the bill of lading or other freight bill, then WAREHOUSE shall be liable for such damage or shortage which shall be deemed to have been caused by



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WAREHOUSE. Unless specifically authorized to open and inspect the Materials, WAREHOUSE shall not be liable for damages to the Materials if no sign of visible damage to the carton, container, or packing was present upon receipt at WAREHOUSE's designated facility. If the Materials arrive damaged, WAREHOUSE shall photograph the damaged Materials and make every effort, as may be requested by TRIVERGIX, to assist in arranging for the repair of the Materials if they are determined to be repairable.

- 3.3 Delivery of Materials. When ordering delivery of Materials by WAREHOUSE to the final Project site, TRIVERGIX shall refer to the Warehouse Receiving Report or other inventory control method utilized in connection with the Project. TRIVERGIX shall provide at least two working day's written notice to WAREHOUSE when Materials are to be removed from the Warehouse facility and delivered to the final Project site. WAREHOUSE shall be prepared to load Materials onto trailers or like equipment and deliver the specified Materials to the designated Project site upon receipt of said notice. WAREHOUSE shall use its best effort to make deliveries at the time specified in TRIVERGIX's notice. If TRIVERGIX's notice specifies a date or time of delivery that WAREHOUSE cannot make, then WAREHOUSE shall immediately notify TRIVERGIX upon receipt of the notice. If WAREHOUSE fails or is unable to perform delivery when at least two regular working days' notice is given, WAREHOUSE will pay the actual costs for a third-party to perform such services and WAREHOUSE shall reimburse TRIVERGIX for all charges associated with the delivery. TRIVERGIX maintains the right to choose the third-party carrier utilized to provide the delivery service. If TRIVERGIX incurs costs related to on-site crew waiting, etc., due to a missed or late delivery on the part of WAREHOUSE after confirming said delivery, TRIVERGIX will pass this expense through to WAREHOUSE at cost, with no additional markup. Should any event delay a scheduled delivery, such as a mechanical breakdown, etc., WAREHOUSE shall, as soon as practicable, advise TRIVERGIX and re-schedule the delivery.
- 3.4 Overtime and Expedited Delivery. If TRIVERGIX requests an overtime delivery, which is defined as a delivery on Saturday, Sunday, a holiday, or at a time other than normal business hours on regular working days, WAREHOUSE will make commercially reasonable efforts to arrange such overtime delivery as requested. When TRIVERGIX requests expedited delivery (when less than two regular working days' notice is given), WAREHOUSE will act in a commercially reasonable manner in arranging for delivery as requested at the rates set forth in the Rate Quote and in section 4, below.
- 3.5 Delivery Ticket. At time of delivery, WAREHOUSE will complete a detailed delivery ticket and will be prepared to provide a tailgate delivery and any other services as outlined in Request for Quote.
- 3.6 Warehouse Access. WAREHOUSE agrees to provide TRIVERGIX's or its customer's authorized representative access to the Facilities for purposes of inspection and incidental pick up of Material. Such access must be granted within 24 hours of any such request. WAREHOUSE will ensure that all visitors to the Facilities are accompanied by WAREHOUSE personnel at all times. WAREHOUSE must ensure that any Material(s) released from storage must be fully described on TRIVERGIX's paperwork and signed for.
- 3.7 Shipping Charges. All Materials should be shipped freight prepaid. However, if WAREHOUSE receives Materials "freight collect" (meaning the delivering carrier will not release the Materials to Warehouse without payment of freight charges), then WAREHOUSE will immediately contact TRIVERGIX for instructions. If WAREHOUSE cannot immediately contact TRIVERGIX, WAREHOUSE will advance collect freight charges of up to \$100.00 on behalf of Customer. WAREHOUSE shall not advance or make payment of C.O.D. charges (or other payment for the Materials themselves, as opposed to freight charges) for TRIVERGIX's customer's suppliers without written approval from TRIVERGIX.
- 3.8 Governmental Regulations. WAREHOUSE shall comply with all applicable laws, rules, regulations and ordinances in performing the Services hereunder.

Section 4 – Rates, Billing, and Payment

- 4.1 General. WAREHOUSE shall charge the Rates for Services set forth in the Request for Quote and shall be subject to the provisions in this Section. Compensation for the Services to be performed by WAREHOUSE will be established on a Project



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by Project basis. The rates established for a particular Project shall remain in effect for the duration of the Project. All weight-based charges shall be calculated on actual weight.

- 4.2 Handling-In and Handling-Out. The “handling in” rate identified in the Request for Quote, shall be charged for handling the Materials from the delivering carrier’s truck into storage. This rate includes all inspections, documenting and reporting quantities and the external condition of shipping containers, requesting inspections from carriers and compiling claim documentation, when required. WAREHOUSE hereby acknowledges that Materials will arrive by all modes of transportation, including parcel deliveries, common carriers, contract carriers, blanket-wrap and ocean container deliveries and that carriers’ drivers may not assist with unloading. Unless otherwise specified, “handling out” charges, if any, only apply to will call / third-party pickups.
- 4.3 Storage. The storage rate identified on the Request for Quote shall be charged to store the Materials for each Storage Period. Additional Materials received on or within the established Storage Period shall be charged at the rate agreed to in the Request for Quote.
- 4.4 Delivery Rates. Unless expressly stated otherwise, delivery rates (if any) shall be either weight based or hourly-based, but not both. For weight-based delivery rates, the delivery rate identified in the Request for Quote, if any, shall be assessed for handling the Materials from the Facilities to the site, including loading, unloading (tailgate or otherwise), and “deadheading” (i.e., the empty return trip to the WAREHOUSE). The break-point deficit weight will apply as follows: the lesser of actual weight x actual rates or the next highest weight break x the corresponding rate will apply. The hourly based delivery rates are not applicable when the delivery is charged at delivery per hundred weight rates. For hourly-based delivery rates, the hourly based delivery rate shall be applied for special/expedited pickups or deliveries. The hourly delivery rate is the applicable van and labor rate for the actual portal to portal hours incurred for delivery to Project site and returning to the WAREHOUSE. Unless otherwise specified, time spent handling and loading are not included in hourly delivery rates.
- 4.5 Stand-By Time Charges. Unless otherwise stated in specific project related requirements, stand-by time shall be assessed to TRIVERGIX for delays to WAREHOUSE due to labor disputes and inaccessibility of Facilities. The rate for delays to WAREHOUSE will begin after one-half hour has elapsed and will be based on the applicable van and labor hourly rate.
- 4.6 Overtime. Services are classified as overtime when TRIVERGIX has requested that the Services be performed on a Saturday, Sunday, a holiday or a regular working day at a time other than normal business hours as specified in a Request for Quote. On Saturday, Services will be charged at the normal per hundred weight rate plus one-half the applicable labor hourly rate or miscellaneous hourly labor rate for the actual hours incurred with a minimum charge of four hours. This will be referred to as a differential. On Sunday or a holiday, Services will be charged at the normal per hundredweight rate plus the applicable labor hourly rate or miscellaneous hourly labor rate for the actual hours incurred with a minimum charge of eight hours. On a regular working day at a time other than normal business hours, Services will be charged as normal per hundredweight plus a premium of one-half times the miscellaneous hourly labor rate for the actual time incurred before and after the normal business hours.
- 4.7 Job Site Returns. Materials returned from Project site will be charged at the applicable van and labor rate for the time incurred loading the vehicle and returning to the WAREHOUSE. Handling the goods into the WAREHOUSE will be charged at the weight-based handling in rate.
- 4.8 Miscellaneous Services. Miscellaneous services such as opening cartons and inspecting contents, inside placement, customer pickups, customer access, assembly of knocked-down items, crating, repackaging, removal or disposal of rubbish, and other miscellaneous services authorized by TRIVERGIX will be charged at the hourly labor rate for actual hours incurred unless otherwise set out in the Request for Quote. Packing material furnished or disposal fees incurred will be charged separately at WAREHOUSE’s usual rates.
- 4.9 Advance of Freight Charges. TRIVERGIX shall reimburse WAREHOUSE for all freight or other charges advanced by WAREHOUSE and pay WAREHOUSE any service charge as set out the Request for Quote.



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- 4.10 **Billing.** WAREHOUSE shall bill TRIVERGIX within seven days of the end of each Storage Period or at Project completion, whichever comes first. WAREHOUSE shall include charges for all activities that fall on or within the Storage Period dates. WAREHOUSE shall include with the invoice to TRIVERGIX all documentation relating to the period being billed, including Warehouse Receiving Reports for handling-in charges, delivery tickets for customer pickups or deliveries and computation sheets showing a list of Materials received and Materials delivered. If WAREHOUSE fails to provide the necessary documents to support its charges, TRIVERGIX may, in its sole discretion, refuse to approve any invoice, in whole or in part, until the above documentation is provided. TRIVERGIX may also, in its sole discretion, refuse to approve or pay any WAREHOUSE invoice submitted later than ninety (90) days from each Storage Period from the date of Project completion, whichever comes first, or charge a late penalty in the amount of twenty percent (20%) of the late invoice amount.
- 4.11 **Payment for Services.** TRIVERGIX will pay WAREHOUSE's approved invoices within 45 days of receipt, except that TRIVERGIX may extend the normal payment terms if TRIVERGIX's customer has not paid TRIVERGIX. WAREHOUSE shall not communicate with TRIVERGIX's customer, directly or indirectly, relating to compensation or payment.

Section 5 – Insurance, Liability, and Indemnification

- 5.1 **Liability.** WAREHOUSE is liable for the actual value of any article of Materials physically lost or damaged while in WAREHOUSE's care, custody, possession, and control, or when the damage to the Materials was caused by the negligence, accidental acts, or omissions of the WAREHOUSE or its agents, servants or employees.
- 5.2 **Insurance.** WAREHOUSE shall purchase and maintain throughout the Project the following types and limits of insurance, from a company or companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, to protect WAREHOUSE from claims that may arise out of, or result from, the WAREHOUSE's operations and completed operations:
- a) Workers' Compensation: As required by the laws of the state in which work is to be performed, including the Broad Form Other States endorsement.
 - b) Employer's Liability Insurance: Limits of not less than \$500,000/\$500,000/\$500,000.
 - c) General Liability for bodily injury and property damage on an occurrence form naming TRIVERGIX and TRIVERGIX's customers as additional insured on a primary and non-contributory basis for limits of not less than:
 - \$1,000,000 each occurrence
 - \$1,000,000 products & completed operations in the aggregate
 - \$2,000,000 general aggregate – per project basis.
 - d) Excess/Umbrella Liability: \$1,000,000 per occurrence/aggregate.
 - e) Automobile Liability: Covering all owned, non-owned & hired vehicles: \$1,000,000 combined single limit
 - f) Warehouseman's Legal Liability Insurance: \$1,000,000 per location
 - g) Cargo Liability Insurance: \$250,000 per vehicle, \$250,000 per occurrence, \$500,000 SIT.
 - h) Employee Fidelity & Crime: \$500,000 per employee or per occurrence.
- 5.3 **Evidence of Insurance.** WAREHOUSE shall furnish to TRIVERGIX certificates of insurance evidencing the above coverages prior to commencement of any Services. TRIVERGIX reserves the right to ask for written confirmation of coverage from insurance company and/or broker. WAREHOUSE will name TRIVERGIX as an additional insured and a certificate holder with any notice of cancellation or change in coverage sent to TRIVERGIX at least 30 days prior to any change.
- 5.4 **Indemnification.** WAREHOUSE shall defend, indemnify, and hold harmless TRIVERGIX from any and all liability, costs and damages, including all costs and attorney fees, to persons and/or property, including cargo, arising out of WAREHOUSE'S performance under this Agreement.



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- 5.5 Delays. WAREHOUSE will be liable for any expense incurred by TRIVERGIX or its customer for delay in delivering items to the Project site at the time specified. Unless otherwise specified, WAREHOUSE's liability for delay shall not exceed \$1,000.00 per day. There shall be no liability for delay caused by any condition included in the Force Majeure provision.

Section 6 – Confidentiality and Back-Solicitation

- 6.1 Confidentiality. In the course of handling services under this Agreement, WAREHOUSE may have access to TRIVERGIX's Confidential Information. WAREHOUSE shall not disclose (or permit its personnel to disclose) Confidential Information to any person outside of its organization. TRIVERGIX's Confidential Information must be shared only within WAREHOUSE's organization to personnel who have need to know the information to perform the work covered by this Agreement. The obligations of WAREHOUSE described in this paragraph shall not apply if WAREHOUSE can demonstrate by clear and convincing evidence that Confidential Information was (a) generally known to the public at the time of WAREHOUSE's disclosure or became known through no wrongful act or omission on part of WAREHOUSE; or (b) was required to be disclosed by WAREHOUSE to comply with applicable laws or the requirements of any regulatory authority. Confidential Information in the form of documents shall be returned to TRIVERGIX upon request. In the event of termination of this Agreement for any reason, WAREHOUSE shall immediately deliver to TRIVERGIX all documents, including all copies, containing or relating to any Confidential Information as well as all other TRIVERGIX property, including notes, memoranda, records, plans, manual, and reports. These Confidentiality obligations herein survive the termination of this Agreement.
- 6.2 No Back Solicitation. WAREHOUSE shall not solicit, for itself or another third party, business from any customer of TRIVERGIX when (a) the availability of such business first became known to WAREHOUSE as a result of TRIVERGIX's efforts, or (b) the business of TRIVERGIX's customer was first tendered to WAREHOUSE by TRIVERGIX. This restriction shall commence on the date that the business first became known to or was last tendered to WAREHOUSE and continue for one year after that date. If WAREHOUSE breaches this agreement and back-solicits and/or obtains business from such a customer, WAREHOUSE understands and agrees that TRIVERGIX is entitled to immediate injunctive relief against WAREHOUSE and is entitled to damages from WAREHOUSE equal to a commission from WAREHOUSE of twenty-five percent (25%) of the gross revenue received from the customer for a period of fifteen (15) months after the WAREHOUSE commences business with that customer. These No-Back-Solicitation obligations survive the termination of this Agreement.
- 6.3 Violation. The provisions on Confidentiality and Back-Solicitation are necessary for the protection of the business and goodwill of TRIVERGIX and are considered to be reasonable by WAREHOUSE for such purpose. Any violation of these provisions would result in irreparable injury to TRIVERGIX; therefore, in addition to other remedies that may be available, TRIVERGIX may obtain injunctive relief to enforce these provisions. If TRIVERGIX incurs expenses to enforce these provisions, WAREHOUSE understands and agrees it will pay all costs, fees and expenses of enforcement, including attorneys' fees, whether or not litigation is commenced.

Section 7 – General Terms

- 7.1 Term & Termination of Agreement. This Agreement shall be effective upon execution of the Request for Quote by both Parties and shall continue indefinitely, subject to the right of either Party to terminate this Agreement with or without cause upon 30 days written notice in the event of breach by the other. Notice of termination is to be sent by fax, e-mail or overnight delivery to the address of the other party set forth Request for Quote. In addition to TRIVERGIX's right to terminate this Agreement for breach, if WAREHOUSE's Services in connection with any Project fail to conform to this Agreement, TRIVERGIX may demand that WAREHOUSE take any action or actions that will cause the services to meet the Agreement's specifications.
- 7.2 Lien. WAREHOUSE has a specific lien on the Materials covered by these Terms and Conditions and each corresponding Request for Quote. Said lien is limited to the charges for the specific Project being performed under these Terms and Conditions and the corresponding Request for Quote. Such lien does not extend to any Materials covered by any other Request for Quote or Project. To the extent that Materials are required to be delivered by this Agreement prior to payment for services, WAREHOUSE waives all lien rights.



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- 7.3 Force Majeure. WAREHOUSE shall not be liable for physical loss or damage to Materials caused by acts of God, terrorism, public enemy, public authority, quarantine, war, insurrection, strikes, labor troubles, riots, earthquake, flood, deterioration by time the act or default of TRIVERGIX or its customers or their representatives, the shipper or delivering carrier, and any other risks causing physical loss or damage beyond the control of TRIVERGIX or WAREHOUSE.
- 7.4 Business Change/Successorship. WAREHOUSE shall provide TRIVERGIX with at least 60 days prior written notice of any change in address, any additional Facilities that will be used to store the Materials, and/or any cessation or curtailing of operations, including, but not limited to, WAREHOUSE going out of business, filing for protection under insolvency laws and/or administratively dissolving. If WAREHOUSE sells all or part of its business, whether by stock sale or by asset sale, it will provide TRIVERGIX with 60 days prior written notice of the sale or transfer, make the assumption of this Agreement an express condition of that sale and will disclose this Agreement to any prospective purchaser. Should WAREHOUSE fail to do so, it will assume responsibility for any and all reasonable expenses incurred in the enforcement of this Section, including relocation expenses, re-consignment expenses and/or legal expenses.
- 7.5 Governing Law/Jurisdiction. Negotiations for the offering, tendering and/or supply of warehousing services to TRIVERGIX are be deemed to have been conducted within the State of Missouri. Accordingly, except to the extent (if any) that they are preempted by federal law, the laws of the State of Missouri shall govern the construction and interpretation of these Terms and Conditions and the dealings of WAREHOUSE with TRIVERGIX. WAREHOUSE expressly submits to the jurisdiction of the Courts of the State of Missouri and the United States District Court for the Eastern District of Missouri and agrees that jurisdiction and venue shall be proper in such Courts and Carrier waives any claim or defense that such Courts will be an inconvenient forum.
- 7.6 Entire Agreement. This Agreement and the Request for Quote incorporated herein constitute the entire understanding between the parties and may not be modified in any way except in a writing signed by both parties.