

## Logistech Solutions Online Services Agreement

Please read this agreement in its entirety carefully. "Customer" refers to you, your company and any person with actual or apparent authority to engage contractually your company.

By sending product to and using Logistech's services, Customer agree to these terms and conditions outlined in this Services Agreement.

Logistech is to provide warehousing, fulfillment, inventory management, order processing and other services as may from time to time be negotiated.

### 1. Parties.

- 1.1. Logistech is a party to this Agreement. The company who uses these services (herein referred to as "Customer") is the other party to this Agreement.

### 2. Payment Terms; Security Interest.

- 2.1. There are 2 billing cycles monthly, 1<sup>st</sup>-15<sup>th</sup> and 16<sup>th</sup> – last day of the month. Customer will be sent an e-bill automatically on the first day following the billing cycle. On the 5<sup>th</sup> and the 20<sup>th</sup> of each month our system will submit the ACH transmittal automatically for payment.
- 2.2. If there are insufficient funds to cover the ACH transfer, a block will be placed on your account and order processing will be placed on hold until payment arrangements can be made. You will be responsible for any insufficient funds charges.
- 2.3. Logistech shall retain a security interest in all of Customer's products held by Logistech, securing the payment by Customer any money owed to Logistech.
- 2.4. All payments to Logistech shall be in U.S. currency.
- 2.5. Customer further agrees that Logistech shall be entitled to collect all fees and expenses incurred by Logistech in connection with the collection of any unpaid amounts hereunder, including without limitation, reasonable attorneys' fees

### 3. Shipments and Shipping Charges.

- 3.1. Carriers may bill for services that are beyond the control of Logistech. Customer is obligated to pay any additional shipping charges incurred by Logistech after a shipment is made, such as duties and taxes, return charges for shipment refusals or undeliverable addresses, or address corrections, without limitation, provided such charges were not incurred as a result of an error by Logistech.
- 3.2. Carriers have the right to change shipping rates at any time. Logistech is not responsible for the accuracy of any estimates of shipping charges provided to Customer. Logistech will notify customer as soon as it is notified of any pending changes in transportation charges or surcharges imposed by carriers.
- 3.3. Logistech reserves the right to choose the carrier to ship goods on behalf of Customer, provided the carrier of choice meets or exceeds customer's requirements for shipping commitments.

### 4. Shipment Insurance; Declared Value; Claims.

- 4.1. Customer must enter the declared value of every product stored and fulfilled by Logistech.
- 4.2. Customer acknowledges that Logistech should declare for purposes of shipment insurance and customs, the aggregate of the value of all parts included in each shipment. Shipping insurance will only be declared for shipments via package carriers excluding US Postal Service. Insurance will only be declared if aggregate value is greater than the value for which the carriers provide insurance by default.
- 4.3. Claims of loss with respect to shipped items are determined by terms and conditions established by the carrier shipping the product, and will vary from time to time and among different carriers. Therefore, Customer expressly agrees that Logistech has no liability if any claim is denied or paid only in part by the carrier

- 4.4. In the event of loss or damage to any package shipped on Logistech's accounts, Logistech will file the claim with the carrier, but shall not be responsible for any loss or damage.
- 4.5. Customer acknowledges that declared value for purposes of shipping insurance may be required to be substantiated by invoices and/or other documents showing purchase price when making insurance claims with carriers.
- 4.6. Any third party billed shipments will be the responsibility of the customer to file claims with carriers.
- 4.7. Logistech is not liable for any carrier's failure to make timely delivery on delivery date specified. Any estimate by Logistech as to probable date of delivery by any carrier is a statement of opinion only, and is not warranted in any manner. Logistech is not liable for any delays in parcels or deliveries by any carrier.
- 4.8. Claims for error in the fulfillment of an order must be filed by Customer with Logistech within 10 days of delivery of buyer's parcel. Upon receiving a claim, Logistech will promptly take steps to identify the source of the error and, if it is determined the error was caused by Logistech, will reship the order at its cost or undertake corrective measures which are appropriate under the circumstances.

### 5. Security and Responsibility for Login

- 5.1. Customer's Account, login ID and password code (collectively called "Login") required for access to and use of our service is the Confidential information of Logistech and Customer. Customer will be responsible for maintaining the secrecy and confidentiality of Customer Login. Customer agrees not to disclose to any other person, corporation, entity or organization the whole or any part of your Login.
- 5.2. Customer is solely responsible and liable for all damages, losses, costs, expenses, fees, claims and obligations whatsoever arising from use of our service through Customer's Login, whether authorized by Customer or not.
- 5.3. Logistech may assume the authenticity and genuineness of any instructions made via Customer's Login as instructions given by Customer or authorized agent of Customer.
- 5.4. Customer must immediately notify Logistech of any known or suspected disclosure or unauthorized use of Login
- 5.5. Logistech is not under any circumstances liable for an losses, damages, or liability occasioned by a breach of security, including without limitation unauthorized use of Customer Login or access to or use of our services through Customer Login, and Customer acknowledges and accepts all liabilities and risks associated with electronic transactions, including without limitation the possibility that third parties may gain access to your confidential information. Customer releases and indemnifies Logistech from any loss, damage or liability resulting from any breach of security, including without limitation the use or misuse (including fraudulent use) of Customer Login or your confidential information.
- 5.6. Customer will take all necessary steps to ensure that Customer does not transmit or receive any computer virus, worms, Trojan Horse, time bombs, cancel bots, cookies that are intended to damage, interfere with, intercept or expropriate any system, data or person information through the use of our service and Customer releases and indemnifies Logistech from any losses, damages or liabilities suffered or incurred through a breach of Customer's obligation to do so.
- 5.7. Customer acknowledges that any processes, data, procedures, manuals, user documentation, online help screens and proprietary or other information provided by Logistech to Customer from time to time in connection with the Service ("Materials") enumerate and details certain procedures, methods and practices ("Procedures") designed to verify that transmissions, information, instructions, data, orders and/or requests ("Communications") are the authorized and unaltered Communications of Customer and Logistech. You consent to the transmissions of Communications through the Internet and acknowledge that the Internet is not necessarily a secure communication and delivery system, and

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understand the confidentiality and other risks associated with it. Customer agrees to be bound by Communications received by Logistech, and Customer and Logistech may rely on the authenticity, accuracy and integrity of Communications received, in accordance with the Procedures applicable to the Communication.

All Notices will be addressed to Customer's Place of business last known to Logistech or sent to Customer's last known facsimile number known to Logistech

### 6. Indemnification.

- 6.1. Customer shall indemnify, defend, and hold Logistech, its officers and employees, harmless from any claim or demand and any loss, liability, or expense associated therewith, including reasonable attorneys' fees, made by any third party due to or arising out of (a) Customer's use of Logistech's services, (b) the violation of any provision of this Agreement by Customer, (c) Logistech's accessing or exchanging information with third party computer systems at Customer's request; (d) the shipment of products to individuals not authorized to legally possess such products; and (e) a claim for personal injury, death, property damage or other claim, including without limitation, product liability claims, defective product claims, and inherently dangerous product claims, arising from or relating to products for which fulfillment services are provided by Logistech to Customer, except to the extent that such claim, demand, loss, liability or expense arises out of gross negligence or willful misconduct on the part of Logistech.
- 6.2. Logistech shall indemnify, defend, and hold Customer, its parents, subsidiaries, affiliates, officers and employees, harmless from any claim or demand and any loss, liability, or expense associated therewith, including reasonable attorneys' fees, made by any third party (including without limitation any carrier) due to or arising out of the gross negligence or willful misconduct of Logistech.
- 6.3. Customer is the seller of all products and Logistech is only the shipping agent, therefore customer is responsible for any sales taxes associated with or arising from the operation of the Customer's business.

### 7. Limitation of Liability.

- 7.1. Logistech is not responsible for any lack of notification based on Customer entering their e-mail address into LOMACS incorrectly. Further, Logistech shall not be liable for the disclosure of any information via e-mail if buyer provides and incorrect e-mail address.
- 7.2. Logistech is not responsible for data updates to third party systems, unless failure to update is due to system failure by Logistech. Failure to update data due to internet failure or 3<sup>rd</sup> party system failures shall not be the responsibility of Logistech.

8. **Term.** This agreement commences upon delivery of product to Logistech.

### 9. Termination.

- 9.1. Either party may terminate this Agreement without cause and without penalty.
- 9.2. Upon written notice of termination, you will be required to pay any outstanding invoices and the final cost of processing and shipment of remaining material.

10. **Notice.** Except for orders and other computer-based communications, all notices to a party shall be in writing and shall be made via conventional mail, fax or email and shall be effective upon receipt by the intended recipient to the respective parties as follows:

If to Logistech

Logistech Solutions, Inc  
1800 Quality Dr. NE  
Wilson, NC 27893

If to Customer

11. **Insurance and Risk of Loss.** Logistech shall not be responsible for insuring products of Customer which are stored on Logistech's property and shipped by Logistech. Customer shall at all times bear the risk of loss with respect to such products; *provided, however,* that Logistech shall use best efforts to securely warehouse products and shall be responsible for any loss or damage to product caused by Logistech's employees.

12. **Force Majeure.** Logistech shall not be liable for failure to perform, or the delay in performance of, any of its obligations under this Agreement if, and to the extent, that such failure or delay is caused by events substantially beyond its control, including, but not limited to, acts of God, acts of the public enemy or governmental body in its sovereign or contractual capacity, war, fire, floods, strikes, epidemics, quarantine restrictions, civil unrest or riots, freight embargoes and/or unusually severe weather. If so affected, Logistech shall notify customer within twenty four (24) hours and shall use commercially reasonable efforts to avoid or remove such causes of non-performance or delay, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. If any such non-performance or delay continues for more than ten (10) days, Customer may elect to terminate this Agreement without liability or any liquidated or other damages upon written notice to the Logistech.

### 13. Miscellaneous.

- 13.1. This Agreement shall be governed by and construed in accordance with the laws of the state of North Carolina, excluding its conflict of law provisions.
- 13.2. Customer and Logistech agree to submit to the exclusive jurisdiction of the courts of the state of North Carolina for resolution of any and all claims arising from or relating to this Agreement. Venue for any lawsuit brought hereunder shall be in the Superior Court of Wilson County, North Carolina, or the United States District Court for the Eastern District of North Carolina
- 13.3. If any provision(s) of this Agreement is held by a court of competent jurisdiction to be contrary to law, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect.
- 13.4. Logistech's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Logistech in writing. The waiver by Logistech or Customer of any breach of a provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by the parties.
- 13.5. Customer and Logistech agree that any cause of action arising out of or related to this Agreement must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.
- 13.6. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement, and may be executed using signatures transmitted via facsimile.
- 13.7. The section titles in this Agreement are solely used for the convenience of the parties and have no legal or contractual significance.
- 13.8. Privacy – Logistech will not share client names, vendors or any other proprietary Customer Information. Customer agrees not to share pricing or contract details with a third party without prior written consent