

STANDARD TERMS AND CONDITIONS FOR FULFILLMENT SERVICES

These Standard Terms and Conditions for Fulfillment Services (these “**Fulfillment T&C’s**”) together with the GEC Services Standard Terms and Conditions (“**Standard Terms**”), govern the Client’s acquisition and use of the Services described in the Master Services Agreement (formerly, Framework Agreement) and related Statement of Work for Fulfillment Services (“**SOW**”) executed by the parties and referencing these terms (the SOW together with these Fulfillment T&C’s, the Master Services Agreement and the Standard Terms, the “**Agreement**”). By signing the SOW, you accept the terms of these Fulfillment T&C’s and agree to be bound by them for so long as you use the Services.

1. **Definitions.**

- 1.1. “**Accurate Orders Shipped**” means a Client Customer’s order shipped with the correct Product.
- 1.2. “**Catastrophic Loss**” means a single conveyance or occurrence where the combined value of all inventory lost by all Service Provider clients in such catastrophic event exceeds \$10,000.
- 1.3. “**Client Customer**” means an end consumer of Client (or, in the scenario where Client is not a merchant, of the party engaged by Client) purchasing a Product.
- 1.4. “**Concealed Loss**” means a damaged unit or missing unit (for items not received at the unit level) which is not identified until Service Provider performs a pick event.
- 1.5. “**Expected Inventory Value**” means the dollar value (based on Client’s wholesale cost) of book inventory, net of (a) inventory overages, minus (b) inventory shortages.
- 1.6. “**High Value/Other Method Shipments**” means any shipment containing Products with a retail value greater than \$500 or shipments tendered for transportation outside of Service Provider’s transportation network.
- 1.7. “**Implementation Date**” means the date upon which the first Transaction is completed.
- 1.8. “**Peak Season**” shall mean the period beginning on October 1 in any calendar year and ending on January 31 the following year.
- 1.9. “**Product**” means an item of Client’s (or, in the scenario where Client is not a merchant, of the party engaged by Client) merchandise submitted, delivered, or otherwise made available to Service Provider or its personnel or contractors for transportation, handling, delivery or other processing in connection with the Services.
- 1.10. “**Services**” means the fulfillment services described in the SOW and in these Fulfillment T&C’s.
- 1.11. “**Timely Processed Return**” means a return from a Client

Customer that is (a) scanned in “Viewable” status in WMS within 3 business days of arrival at the applicable Processing Center, and (b) dispositioned by Service Provider in accordance with its obligations to Client and/or as required by law.

1.12. “**Timely Received Manifests**” means an incoming shipment that is (a) designated as “arrived” status in WMS within 1 business day of arrival at the applicable Processing Center, and (b) scanned into WMS as available for picking (i) within 4 business days for shipments greater than 7,500 units or 75 SKUs on a single manifest, or (ii) 2 business days for all other shipments.

1.13. “**Timely Shipped Orders**” means (a) for a Client Customer’s order received before the applicable Ordering Processing Cut Off Time set forth in the SOW, shipping such order the day it is received, and (b) for an order received after the applicable cut-off time, shipping such order the business day following the day it is received.

1.14. “**Transaction**” means the completion of any portion of the Services for which a fee may be charged.

1.15. “**WMS**” means Service Provider’s proprietary Warehouse Management System for fulfillment operations.

1.16. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the SOW, and if not set forth therein, as ascribed in the Master Services Agreement, and if not set forth therein, as ascribed in the Standard Terms.

2. **Client’s Obligations.** Client must fulfill the following obligations to obtain Fulfillment Services:

2.1. **Supply.**

2.1.1. **Sufficiency.** Client shall provide Service Provider with sufficient inventory (and if applicable, adequate sources of supplies) to meet anticipated demand.

2.1.2. **Scheduling Requirements.** At least 1 week prior to arrival at Processing Center, Client must schedule incoming inventory shipments with Service Provider. 48 hours prior to arrival at Processing Center, Client must submit complete manifests detailing SKUs and quantity of scheduled inventory. Unscheduled or collect shipments may be rejected at Service Provider’s sole discretion and Client’s sole expense.

2.2. **Forecasts.**

2.2.1. **Monthly.** At least 15 days prior to start of a month during which Services will be performed, Client must provide Service Provider with a forecast detailed by day for the entire month.

2.2.2. **Quarterly.** At least 45 days prior to the start of a fiscal quarter, Client must identify promotions, sales, Product releases, and other events or activities which may reasonably be expected to have a material impact on the volume, timing, or composition of orders and notify Service Provider thereof.

2.2.3. **Peak Planning.** Client shall meet with Service Provider no later than September 15th of each year of the Term to discuss Peak Season forecast, capacity, SLAs and any Client upgrade elections.

2.3. **Compliance.**

2.3.1. **Service Provider Policies.** Client, shall comply with Service Provider’s implementation specifications and Processing Center policies, including but not limited to the requirement that orders be transmitted in real time and providing any certifications or other documentation reasonably requested by Service Provider to evidence compliance. Client shall provide sufficient detail for all Products in order for Service Provider to provide the Services while complying with all laws and regulations relating to the Product, including compliance, storage and shipping obligations, and Client acknowledges that additional costs may result from Client’s failure to provide sufficient information about the Product in order for Service Provider to fully and timely comply with any such laws or regulations. Client shall have its own program in place for the timely removal of inventory and Client shall bear any costs relating to the expiration of any Product, including, without limitation, storage, quarantining or removal costs charged by Service Provider, for which Client has not implemented or complied with such program.

2.3.2. **Prohibited Products Notification; Hazards; and Recall.** Client shall immediately notify Service Provider with the pertinent facts if Client knows or should have known that it has furnished any Products that do not conform to the representations and warranties set forth in **Section 3**. Without limiting the foregoing, if Client becomes aware of any information which reasonably supports a conclusion that a hazard or defect may exist in any Product and such hazard or defect could cause death or bodily injury to any person or damage to any real or tangible personal property (“**Hazard**”), Client shall promptly notify Service Provider of the Hazard and promptly provide Service Provider all relevant data, information, tests, and conclusions relating to such Hazard. Following the discovery of a Hazard, upon request of Service Provider or any Regulatory Authorities, Client shall recall any and all affected Products at its sole cost and expense.

2.3.3. **Labeling and Documentation.** If Service Provider

permits Client to make hazardous Products or Products otherwise prohibited hereunder available to Service Provider in connection with the Services, Client is solely responsible for requirements specific to hazmat labeling, quantity limits, packaging, documentation and/or detailing, prior to said Products arriving at the Processing Center and Client must be able to furnish product sourcing information and material safety data sheets for such eligible Products upon Service Provider's reasonable request. In addition, Client shall make available to Service Provider (or to an applicable Regulatory Authority) any and all requested or otherwise required certifications or other documentation related to compliance of such Products with applicable rules or regulations or Service Provider's policies upon the timeline and methods set forth in any relevant rules or regulations or Service Provider's policies.

2.4. **Insurance.** Client shall maintain commercial general liability insurance including premises or operations, broad form property damage, and contractual liability covering its obligations hereunder for bodily injury and property damage, with a combined single limit of not less than \$1,000,000 each occurrence and product liability insurance in an amount not less than \$2,000,000 on a per occurrence basis. All policies shall be provided with insurance companies licensed to do business in the state(s) where operations are maintained and shall provide that such coverage under these policies will not be canceled or materially changed without at least 30 calendar days' prior written notice and shall list Service Provider as an additional insured.

2.5. **Designated Point of Contact.** Client shall provide a designated point of contact with sufficient qualifications to coordinate with Service Provider's account management and compliance teams and Regulatory Authorities as necessary.

3. **Client Representations and Warranties.** Unless otherwise stated in the SOW, Client hereby represents, warrants and covenants that:

3.1. No Products delivered to Service Provider are counterfeit goods or goods that otherwise violate trademarks or other Intellectual Property rights held by third party owners of such rights.

3.2. All Products transported pursuant to the Agreement do not, and will not, contain (a) hazardous materials such that hazardous shipping papers are required under CFR 49, ORM-D, DOT or other applicable laws (including rules or regulations promulgated thereunder), (b) dangerous goods such that IATA Dangerous Goods Regulations would apply, (c) prescription drugs or other controlled substances or other regulated goods not supported by Service Provider or otherwise prohibited to be sold or transported into the applicable country, (d) pest or mold infested or otherwise unsanitary conditions that are capable of infecting or infesting other areas, goods or

packages or (e) items the transport, storage or receipt of which by the receipt would violate domestic or international law.

3.3. With respect to any Products that are subject to regulation by the U.S. Food and Drug Administration ("FDA") or similar state or local authorities with jurisdiction over health and consumer Products, such Products:

3.3.1. may legally be marketed and are in compliance with all applicable laws relevant to permissible ingredients and contents, and that to the extent required Client has obtained any applicable regulatory approvals and has made such notifications as are necessary for its legal marketing of same;

3.3.2. have been and will be manufactured, packaged, labeled, and held in accordance with all applicable laws, including but not limited to established and applicable FDA Good Manufacturing Practices as set forth in Title 21 of the Code of Federal Regulations and FDA guidance documents;

3.3.3. have been and will be manufactured and held in facilities that are registered with the FDA to the extent required by applicable law; and

3.3.4. are not (a) adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, or (b) an article which may not, under the provisions of Section 404, 505, 507, or 512 of the Act, be introduced into interstate commerce.

3.4. The Products have been and will be marketed, advertised, and sold in compliance with all applicable laws, including those enforced by the U.S. Federal Trade Commission or similar state and local authorities with jurisdiction over health and consumer Products (together with the FDA and other state and federal regulatory authorities, "Regulatory Authorities") or which prohibit false and misleading statements or which require adequate substantiation for claims made, and that Client will not engage in any unfair trade practices with respect to the Products.

3.5. Neither Client nor any of the Products have been the subject of an enforcement action from any Regulatory Authority, nor has Client been the subject of any government investigations, lawsuits or other actions of any kind in connection with the Products.

3.6. No Products delivered to Service Provider contain infestations of pests, mold or other biohazards or otherwise unsanitary or hazardous conditions that are capable of infecting or infesting other property, goods or packages ("Affected Products"). Client acknowledges that Affected Products may require quarantining, handling, removal and/or disposal by Service Provider at Client's cost.

4. **Certain Service Provider Remedies.**

4.1. **Long-Term Storage and Disposal.** Products not cycling through at the expected rate identified in Client's Operating Parameters set forth in the SOW will be moved to Long-Term Storage and charged a Long-Term Storage fee for up to 90 days ("Maximum Long-Term Storage Period"). After such time, the Products will be disposed at Client's expense. Client may elect to retrieve Products from Long-Term Storage prior to the expiration of the Maximum Long-Term Storage Period. In addition to the Long-Term Storage fee, Client is responsible for all labor and disposal rates associated with Products moved from their initial inventory position.

4.2. **Incurred Costs.** Notwithstanding Section 8 or anything to the contrary in the Standard Terms, and without limiting any other remedy available at law or otherwise, Client shall reimburse Service Provider for all costs, fine, losses, damages, fees and expenses incurred by Service Provider as a result of or in connection with, (a) Client's breach of its obligations in Section 2, including, cost for backorders, delay notices, canceled orders and increased Client service resulting from out of stock conditions; and excess labor or other costs associated with missing or inaccurate forecasts, diversions, failure to comply with trailer release schedules at the facility, or (b) any governmental action, demand or investigation relating to any Product, including with respect to any Hazard or related recall. Labor costs will be billed at the Special Project rate.

5. **Service Provider's Fulfillment Service Obligations.**

5.1. **Order Processing.** During non-Peak Season, Service Provider will process Client Customer orders; provided, Service Provider shall have no obligation to process more than the Maximum Daily Throughput per day set forth in the SOW.

5.2. **Account Management.** Service Provider will provide a designated point of contact to coordinate receiving of inventory and escalation of issues with Client's designated point of contact.

5.3. **WMS.** Service Provider shall provide a WMS dashboard for Client's access to details related to inventory, order fulfillment and shipping details. The WMS is the database of record for all Fulfillment Services SLAs.

6. **Service Levels.**

6.1. **Standards.** Subject to the terms and conditions of the Agreement, during non-Peak Season, Service Provider will use commercially reasonable efforts to achieve the following service levels:

- a) 99% of total Client Customer orders shipped by Service Provider in a calendar month will be Accurate Orders Shipped ("Orders SLA");

- b) 99% of total returns from Client Customers in a calendar month that (i) arrive at a Processing Center with a return merchandise authorization or pack slip, (ii) contain identifiable Products, and (iii) are not hazardous or regulated Products or otherwise for which a non-standard returns standard operating procedure must be followed, will be Timely Processed Returns (“Returns SLA”);
- c) 99% of total pre-scheduled shipments received by Service Provider from Client in a calendar month will be Timely Received Manifests (“Receiving SLA”); and
- d) 99% of total processable (including having complete and legible order information) Client Customer orders received by Service Provider in a calendar month will be Timely Shipped Orders (“Shipped SLA”).

6.2. **Exceptions.** Notwithstanding anything to the contrary contained in the Agreement or otherwise, Service Provider shall have no obligation to meet the Service Levels:

- a) during Peak Season;
- b) during a Force Majeure Event;
- c) for any given month, if Client fails to provide forecasted order volume with sufficient notice, or if actual volume exceeds forecasted volume by more than 20%;
- d) if the Operating Parameters set forth in the SOW differ in any material respect from the actual operating conditions;
- e) with respect to the Shipped SLA, if more than 20% of the forecasted order volume is received within one hour of the applicable cut-off time;
- f) if orders exceed the Maximum Daily Throughput; or
- g) failure to adhere to scheduling requirement in Section 2.

7. **Client Claims and Remedies.**

7.1. **SLA Claims.** Service Provider shall, in its quarterly review of the Services, provide Client with Service Level compliance reports based on WMS data as set forth in Section 5.3. Client must submit any claim of Service Level non-compliance into Service Provider’s ticketing system within 15 business days following the end of the applicable measuring period, and such claim must be supported by reasonable documentation (including, without limitation, written statements, affidavits or photographs) or other evidence as may be requested by Service Provider (any such claim, an “**Eligible Claim**”).

7.2. **SLA Remedies.** For each Service Level, within one week of receiving an Eligible Claim, Service Provider shall implement a corrective action plan. If Service Provider does not meet such

Service Level during each of the two months following the non-compliant measuring period (“**Stabilization Period**”), Service Provider shall issue Client a credit equal to the applicable fee for the Service performed below the Service Level until such time as the Service Level is met during a measuring period. For the avoidance of doubt, if Service Provider meets the applicable Service Level during a Stabilization Period and thereafter fails to meet such Service Level, Client’s remedies for such non-compliance are subject to Service Provider’s right to correct the non-compliance during a new Stabilization Period.

7.3. **Loss Claims & Remedies.**

7.3.1. **Packages Generally.** Service Provider’s liability with respect to a package bearing a Service Provider label and managed through Service Provider’s transportation network is set forth in the applicable Domestic Parcel Services terms set forth in the SOW. Affected Products are not eligible for Loss Claims.

7.3.2. **Outbound High Value/Other Method Shipments.** Service Provider will assist Client in processing claims for High Value/Other Method Shipments shipped from a Processing Center and will promptly notify Client in the event Service Provider becomes aware of a claimable loss. To pursue a claim for outbound High Value/Other Method Shipments, Client must file a complete written notice with Service Provider containing written facts sufficient to identify the claim. Service Provider will promptly investigate each such claim and submit a corresponding claim for the declared value with the applicable third party carrier. Within 10 business days after receipt of payment of the claim by the third party carrier, Service Provider will pay amounts received to Client or request that the third party carrier pay such claim amount directly to the Client.

7.3.3. **Returns of High Value/Other Method Shipments.** Service Provider shall not be liable for returns of High Value/Other Method Shipments. Client shall instruct Client’s Customers submitting a return of a High Value/Other Method Shipments Package to properly insure such package and Client and Client’s Customer shall be solely responsible for filing any claims related to such shipment.

7.3.4. **Inventory.** Client is responsible for all costs and expenses related to Client’s vendors and assumes all risk of loss of inventory prior to such inventory’s receipt into WMS. Service Provider’s liability for inventory shall begin when Products are received into WMS and is based on method of receiving (if Service Provider receives an unopened kit by the unit level, Service Provider is liable only for the number of kits, not for the items that may or may not be in the kit; if Service Provider receives by the pallet, Service Provider is liable only for the number of pallets). Service Provider shall

have no liability to Client or third parties for losses caused directly or indirectly by Client for failure to provide sufficient inventory or for Concealed Loss. Client may, no more than annually, request a physical inventory which will be billed to Client at the hourly Special Project rate. If such inventory reveals a discrepancy between Expected Inventory Value and Service Provider’s physical inventory of Products, Service Provider shall reimburse Client the wholesale cost of such discrepancy; provided, in no event will Service Provider be liable to Client under this Section for any Concealed Loss or for more than \$10,000 annually.

7.3.5. **Catastrophic Loss.** Service Provider will notify Client promptly of any Catastrophic Loss and will file a claim with its insurance carrier. Client shall timely provide Service Provider with any information reasonably requested in order to process such claim with the insurance carrier. Within 10 business days after receipt of payment of the claim by the insurance carrier, Service Provider will pay amounts applicable to Client’s Loss Claim Value (on a pro rata basis) resulting from the Catastrophic Loss to Client.

7.3.6. **Complete and Exclusive Remedy.** For the avoidance of doubt, Service Provider’s determination of Service Level compliance and Product loss, and any associated credits and/or reimbursement shall be final. Client’s sole and exclusive remedy for Service Provider’s failing to achieve a Service Level or for Product loss is set forth in this Section.

- 8. **Indemnification.** Client shall indemnify, defend and hold harmless Service Provider and its affiliated and controlling entities, and the directors, employees, officers, agents, subcontractors, licensors and suppliers of each of them from and against all third party (including any Client Customer) liabilities, claims, suits, demands, actions, fines, damages, losses, costs and expenses (including reasonable attorneys’ fees) arising out of or in connection with: (a) the design, manufacture, content, ingredients, labeling, packaging, marketing, use, storage, disposal, importation, customs clearance, transportation or sale of any Product or Client’s (or its agent’s) instructions regarding such Product; (b) actual or alleged infringement, misappropriation, dilution or other violation of any Intellectual Property right of any third party arising from Client Owned Property, any Product or any other merchandise, tool, application or Intellectual Property provided or made available to Service Provider in connection with its provision of the Services; (c) actual or alleged violations of any laws, rules or regulations applicable to Client or a Product; (d) Client’s breach or misrepresentation of any warranty or representation in Section 3 of these Fulfillment T&C’s; (e) any injury to or death of any person or damage, or loss of improvements, to real property or tangible personal property to the extent caused by or otherwise resulting from Client’s or any of Client’s Customer’s employee’s, consultant’s, vendor’s or agent’s (“**Client Parties**”) negligent or reckless acts or omissions or willful misconduct; and (f)

Client's or any Client Parties' access to Service Provider's Systems (including the WMS) in connection with the Services. Service Provider shall have no liability or indemnification obligation under the Agreement arising out of or in connection with any Product.

9. **Termination.**

9.1. **Service Provider Rights.** Service Provider may terminate the SOW immediately if: (a) no Implementation Date has occurred within 60 calendar days of the SOW's Effective Date, (b) without limiting Section 2.2 of the Standard Terms, Client fails to pay Fees when due, (c) Client breaches or makes a misrepresentation under Section 3 of these Fulfilment T&C's, or (d) Service Provider is prompted to respond to any claim, suit, action or proceeding (including a recall) brought or made by a Regulatory Authority and related to Client or any Product.

9.2. **Effect of Termination.** Upon expiration or termination of the SOW for any reason: (a) Service Provider will either (i) upon prepayment of the fees specified in the SOW, promptly return to Client all Products in Service Provider's possession and control or thereafter received by it from Client Customers or (ii) provide Client or Client's agent access to remove the Products during a mutually agreed upon time; and (b) Client shall immediately cease (and will instruct Client Customers and vendors to cease) submitting Products to Service Provider. Neither party will incur any liability for any damage, loss or expense of any kind suffered or incurred by the other arising from or incident to any termination of the SOW which complies with the terms of the Agreement, whether or not the terminating party is aware of any such damage, loss or expense. All Products which remain at a Processing Center more than 30 days after termination or expiration of the SOW shall be deemed abandoned and shall be disposed by Service Provider at Client's sole expense.

9.3. **Disposal of Products.** If Client fails to pay all outstanding amounts due under the SOW within thirty (30) days after termination of the SOW and Service Provider's demand for final payment, without limiting Section 9.1, Service Provider, at its option, may (but shall not have any obligation to) sell all or any Products in its inventory at public or private sale. Costs incurred by Service Provide in the sale of Products under this Section are the responsibility of Client and shall be deducted from the proceeds of such sale. Sale of Products under this Section does not relieve Client of its obligation to pay the full amount of the outstanding balance of any amounts due to Service Provider under the SOW.

-----End of Standard Terms and Conditions for
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