

Hegele Logistics, LLC **General Terms & Conditions**

Forwarding, Carriage, Storage and Logistic Services **United States of America**

All freight forwarding/shipping/warehousing and other logistic services provided by Hegele Logistics, LLC ("Hegele") to the "Customer," whether Customer is a manufacturer, distributor, exporter, importer, sender, consignor, consignee, transferor, transferee, or other agent acting on behalf of Customer (including but not limited to warehousemen, insurers, underwriters, and break-bulk agents of the shipment) will be subject to these General Terms & Conditions. The General Terms & Conditions are legally binding between Hegele and Customer as a contract for the services provided by Hegele. Customer is required to provide notice and a copy of these General Terms & Conditions to all agents acting on Customer's behalf.

1. **Hegele as Agent.** Hegele acts as an agent for its Customers in providing its services to the Customer. Hegele is and acts solely as an independent contractor.

2. **Third Party Services.** Unless Hegele carries, stores or otherwise physically handles the shipment, and loss, damage, expense or delay occurs during such activity, Hegele assumes no liability as a carrier and Customer agrees and will not hold Hegele responsible for any loss, damage, expense or delay except as may be provided otherwise in these General Terms & Conditions and subject to the limitations provided herein. Hegele will undertake to use reasonable care in the selection of carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen and other third party service providers to whom Hegele may entrust Customer's property for transportation, cartage, handling and/or delivery and/or storage. If Hegele carries, stores or otherwise physically handles Customer's shipment, Hegele does so subject to the limitations provided in these General Terms & Conditions, unless a separate bill of lading, air waybill or other contract of carriage is issued by Hegele to Customer, for which the terms of such subsequent contract will govern.

3. **Liability for Acts or Omissions of Third Parties.** Hegele is authorized by Customer to select and engage carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen and others, as required by Customer, to arrange for transportation, storage and delivery of Customer's property. The property of Customer may be entrusted to such third party agents of Customer subject to all conditions as to limitations of liability for loss, damage, expense or delay and to all rules, regulations, requirements and conditions, whether printed, written or stamped, appearing in bills of lading, receipts or tariffs issued by such carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen, and other third party service providers. Hegele will under no circumstance be liable for any loss, damage, expense or delay to or for Customer's property for any reason when the Customer's property is in the custody, possession or control of third parties selected by Hegele.

4. **Choosing Routes or Agents.** Customer agrees that Hegele is authorized to select the means, route and procedure to be followed in the handling, transportation and delivery of Customer's property, unless Customer provides Hegele with written instructions prior to Hegele's selection such means, route and procedure for handling, transportation and delivery of Customer's property. Advice or suggestion provided by Hegele to Customer relative to a particular third party carrier, transporter, handler, broker, agent, warehouseman, or other third party service provider is not and will not be construed by Customer to be a warranty or representation issued by Hegele that such third party service provider will render the corresponding services. All terms of delivery shall be based upon INCOTERMS® 2010 unless otherwise specifically noted or implied through the use of a term not defined in INCOTERMS® 2010.

5. **Quotations Not Binding.** Each quotation provided by Hegele to Customer with respect to fees, freight charges, insurance premiums or other chares are strictly for Customer's information and remain subject to change without further notification to Customer. The quotations are for purposes of providing Customer with a fee/expense estimate for the services to be provided in the quotation and

estimates are not binding and will not be binding upon Hegele under any circumstance unless Hegele provides Customer with written confirmation that Hegele will provide the services at specific rate appearing in the quotation.

6. **Limitation of Liability.** In the absence of additional insurance coverage pursuant to Section 6 of these General Terms & Conditions, **CUSTOMER AGREES THAT HEGELE WILL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL LOSSES, DAMAGES OR EXPENSES, DIRECTLY OR INDIRECTLY, ARISING FROM ANY CAUSE WITH RESPECT TO THE SERVICES PROVIDED BY HEGELE OR ANY THIRD PARTY AS DIRECTED BY HEGELE, THESE TERMS AND CONDITIONS, OR ANY OTHER CAUSE OF ACTION, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, STATUTORY CLAIMS OR ANY OTHER LEGAL THEORY; AND HELGELE'S LIABILITY TO CUSTOMER, IF ANY, SHALL BE LIMITED TO THE LESSER OF \$.50 POUNDS PER ARTICLE OR THE AGGREGATE CHARGE FOR SERVICE PROVIDED BY HELGELE OR THE THIRD PARTY DIRECTED BY HELGELE.**

7. **Presenting Claims.** In order to bring a claim for damage, loss or delay against Hegele or any third party engaged by Hegele, Customer will present the claim to Hegele in writing within seven (7) calendar days of receipt of the shipment containing Customer's property or following the provision of other logistic services. Failure to provide Hegele with such notice will constitute Customer's acceptance of Customer's property on time and in a condition satisfactory to Customer. Any claim not resolved by mutual agreement of the parties will be subject to arbitration pursuant to the rules of the American Arbitration Association pursuant to the terms set forth herein.

8. **Insurance.** Hegele will make reasonable efforts to obtain insurance on the Customer's property only upon the receipt of specific written instructions as to the kind and amount of insurance to be obtained from the Customer in sufficient time prior to shipment from the point of origin. Hegele does not warrant that such insurance can or will be obtained. Unless the Customer has its own open policy and instructs Hegele to effect insurance using that policy, insurance is to be obtained through one or more insurance companies or underwriters selected by Hegele. Any insurance placed shall be governed by the certificate or policy issued and will only be effective when accepted by such insurance companies or other underwriters. Should an insurer dispute its liability for any reason, the insured shall have recourse against the insurer only and Hegele shall not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rates as that charged or paid to Hegele by the Customer, or that the shipment was insured under a policy in the name of Hegele. Insurance premiums and the charge of Hegele for arranging the same shall be at the Customer's expense. If for any reason the goods are held in a warehouse, or elsewhere, the same will not be covered under any insurance, unless Hegele receives written instructions from the Customer. Unless specifically agreed in writing, Hegele assumes no responsibility to effect insurance on any export or import shipment which it does not handle.

9. **Indemnification.** The Customer agrees to indemnify, defend and hold Hegele harmless from any claim, liability or cause of action arising from the import, export, transportation or warehousing of the Customer's property which may violate any federal, state or other law or regulation of the United States or any foreign country related to the shipment of the Customer's product. In the event that a carrier, other third-party, or any governmental agency makes a claim or institutes legal action against Hegele for freight, duties, fines, penalties, liquidated damages or other money due arising from the shipment of the Customer's property, the Customer agrees to indemnify and hold Hegele harmless from any amount Hegele may be required to pay such carrier, third-party or governmental agency together with reasonable expenses, including, but not limited to, attorneys' fees, incurred by Hegele in connection with defending such claim or legal action, and obtaining reimbursement from the Customer. The confiscation or detention of the goods by any governmental authority shall not effect or diminish the liability of the Customer to Hegele to pay all charges or other money due promptly on demand.

10. **Payment Terms.** The payment terms for any service provided to the Customer by Hegele are net thirty (30) days of issuance to the Customer's of Hegele's invoice for such services. If

Hegele does not receive payment on an invoice within thirty (30) days of issuance, interest will accrue on the unpaid balance at the rate the greater of eighteen percent (18%) per annum or the maximum statutory rate permissible.

11. General Lien on Property. Hegele will have a lien on any and all property (and documents relating thereto) to the Customer, in its possession, custody or control or en route, for all claims for charges, expenses or advances incurred by Hegele in connection with any shipments for the Customer, and if any claim remains unsatisfied for thirty (30) days after demand for its payment, Hegele may sell at public auction or private sale, upon ten (10) days written notice to the Customer, the property, as may be necessary to satisfy such lien, and apply the net proceeds of sale to the payment of the amount due Hegele. Any surplus of proceeds from such sale shall be transmitted to the Customer, and the Customer will remain liable for any deficiency after application of the proceeds of such sale.

12. Compensation for Hegele. The compensation for Hegele for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by Hegele to transport and deal with the goods and such compensation will be exclusive of any brokerage, commissions, dividends or other revenue received by Hegele from carriers, insurers and other third-parties in connection with the services performed by Hegele. Upon request, Hegele will provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Customer for monies due to Hegele, the Customer will pay the expenses of collection and/or litigation, including Hegele's reasonable attorneys' fees.

13. Warehousing. Hegele will agree to store the Customer's property on a limited, temporary basis and will conduct such services pursuant to Article 7 of the Uniform Commercial Code. During this time, Hegele's standard of care shall be that of a reasonably careful person under similar circumstances. The Customer agrees that such standard of care will be met if Hegele uses those methods of handling and storing that it uses for its customers generally. No higher standard of care shall be applicable except to the extent imposed by any special services arranged independently with and paid for by the Customer.

The Customer warrants that it has lawful ownership and possession of the property. The Customer warrants that all goods delivered to Hegele's facility will be properly marked and packaged for storage and handling. The Customer will furnish at or prior to such delivery, a manifest showing specific identifying information to be kept and accounted for separately, and the class of storage and other services desired.

All property accepted by Hegele will be for general merchandise storage only and Hegele will not be liable for any loss, deterioration, damage, or destruction resulting from any cause during the temporary storage. The Customer acknowledges that the property is not insured by Hegele against loss or damage however caused. The Customer declares that damages are limited to the lesser of \$.50 per pound per article or the charge for such warehousing services; provided, however, that such liability may at the time of acceptance of these terms and conditions for warehousing be increased upon the Customer's written request on all of the property warehoused by Hegele in which event an additional charge will be incurred by the Customer and such expense will be based upon the increased valuation of the Customer's property. Where loss or damage occurs to tendered, stored or handled property of the Customer, for which Hegele is not liable, the Customer will be responsible for the cost of removing and disposing of such property and the cost of any environmental cleanup and site remediation resulting from the loss or damage to the Customer's property.

14. Force Majeure. Hegele will not be liable for any delay in the performance or non-performance, in whole or in part, by the occurrence of any contingency beyond the reasonable control of Hegele, including, but not limited to, fires, floods, labor trouble, strikes, break-downs, riots, embargoes, the regulation, order, or requirement of any government, war (whether or not an actual declaration thereof is made), failure or delay in transportation caused by fire, flood, or act of any government or any agency or subdivision thereof, affecting these General Terms & Conditions or otherwise, judicial action, accident,

explosion, storms or other acts of God. Any such delay shall excuse Hegele from performance and Hegele's time for performance shall be extended for the period of delays and for a reasonable period thereafter.

15. Severability. In the event any court or agency of competent jurisdiction determines that any portion of these General Terms & Conditions is void or unenforceable, such portion will be severed from and the remainder these General Terms & Conditions will continue unaffected.

16. Assignment. The Customer will not assign, delegate or subcontract all or any portion of these General Terms & Conditions to any third-party without the prior written consent of Hegele. Any attempted assignment or delegation will be in violation of this Section 16, rendering these General Terms & Conditions, and any corresponding agreement between the parties, null and void.

17. Entire Agreement/Modification. These General Terms & Conditions, together with all corresponding agreements between the parties contain the entire understanding as between Hegele and the Customer relating to the subject matter contained herein. No prior agreement, oral or written, will be deemed to exist which would alter or modify any provision of these General Terms & Conditions. Any modification or amendment to these General Terms & Conditions will be in writing and signed by the parties. These General Terms & Conditions will be binding upon Hegele and the Customer as well as their respective successors and assigns.

18. Arbitration. Any and all claims relating to or arising from this Agreement and these General Terms & Conditions shall be resolved by binding arbitration pursuant to the JAMS Streamlined Arbitration Rules & Procedures. If, within ten (10) days after the parties' receipt of the JAMS Commencement Letter, the parties have not agreed to an arbitrator, an arbitrator shall be selected in accordance with the JAMS' rules referenced above. The dispute shall be decided by one neutral arbitrator and shall take place in Chicago, Illinois..

19. Choice of Law. This Agreement is to be governed by and construed in accordance with the laws of the State of Illinois (USA), without regard to the conflicts of laws principles thereof. The parties agree that they submit to the exclusive jurisdiction of the Courts of the aforementioned state for all actions and proceedings arising in connection with this Agreement and waive all challenges to the personal jurisdiction of such Courts.

Effectively Dated as of: September 1st, 2012