Section 1 - Definitions
As used in this Warehouse Receipt ("RECEPT") or Contract and Rate Quotation ("RATE QUOTATION") the following terms have the meanings assigned to them.
(a) CONTRACT. COMPANY’S RECEIPTE OR RATE QUOTATION containing these Contract Terms and Conditions.
(b) STORER. The person, firm, corporation or other entity for whom the GOODS described herein are stored and to whom this COMPANY’S RECEIPTE OR RATE QUOTATION has been delivered.
(c) COMPANY. SEANOUS HOLDINGS LLC, its subsidiaries and affiliates. As used in Sections 9 and 10 COMPANY includes officers, directors, employees and agents of COMPANY while acting within the scope and course of their employment.
(d) GOODS. Any property irrespective of its nature which is delivered to COMPANY at a specific location and stored at its warehouse.
(e) GOODS. The personal property and any portion thereof described herein which COMPANY has agreed to receive, handle and store pursuant to this CONTRACT.
(f) COMPANY’S RECEIPTE OR RATE QUOTATION incurred by COMPANY in connection with the storage, handling and/or disposition of the GOODS, including without limitation, any additional charges, expenses, labor and/or any other charges for such services.
(g) SECTION 1 - TENDER - TENDER FOR STORER.
(a) STORER agrees that at all GOODS for storage shall be delivered at the WAREHOUSE properly marked and packed for handling.
(b) STORER shall furnish, at or prior to delivery, a manifest showing marks, brands or sizes to be kept and accounted for separately and the class of storage desired. Otherwise the GOODS may be stored in bulk or assorted lots in freezer, cooler or general storage at the discretion of COMPANY and at the applicable storage rate.
(c) STORAGE LIABILITIES. COMPANY reserves the right within its sole discretion concerning the GOODS sufficient to allow COMPANY to comply with all laws and regulations concerning the storage, handling and transportation of the GOODS and will indemnify and hold COMPANY harmless from all loss, cost, penalty and expense (including reasonable attorneys’ fees) as a result of STORER’s failure to do so.
(d) Receipt and delivery of the GOODS shall be made without sorting except by special arrangement which may be subject to a charge.
(e) Unless otherwise agreed in writing, COMPANY shall store and deliver GOODS only in the packages in which they are originally received and shall not segregate GOODS by production code.
(f) COMPANY agrees that all GOODS shipped to COMPANY shall identify STORER on the bill of lading or other contract of carriage as the consignee, in care of COMPANY, and shall not identify COMPANY as the consignee. If, contrary to this requirement, GOODS are shipped to COMPANY as consignee, STORER shall indemnify and hold COMPANY harmless from all claims for transportation, storage, handling or other charges relating to such GOODS.
Section 2 - TENDER - TENDER FOR STORAGE.
(a) The GOODS shall be stored at COMPANY’S discretion, at any one or more buildings at the WAREHOUSE. The identification of any specific location within the WAREHOUSE does not guarantee that the GOODS shall be stored there.
(b) STORER incurred by COMPANY as agreed in writing, shall deliver, and without notice to STORER, remove any GOODS from any room or area of the WAREHOUSE or any other room or area.
(c) Upon ten days written notice to STORER, COMPANY may, at its expense, remove the GOODS to any other warehouse operated by COMPANY.
Section 3 - STORAGE CHARGES.
(a) Storage charges commence upon the date that COMPANY accepts custody of the GOODS, regardless of unloading date or date RECEPT is issued. Unless COMPANY specifies otherwise, storage charges shall be computed separately for each lot on one of the following bases:
(1) If storage is charged on a “SPLIT MONTH BASIS” the storage month shall be a calendar month. A full month’s storage charge will apply to all GOODS received between the 1st and 15th, inclusive, of a calendar month. One half month’s storage charge will apply on all GOODS received between the 16th and last day, inclusive, of a calendar month. A full month’s storage charge shall be assessed on the calendar month and each month thereafter on all GOODS then remaining in storage.
(2) If storage rates are quoted on an “ANNUAL BASIS” the storage month shall extend from date of receipt in one calendar month to, but not including, the same date of the next month. If there is no corresponding date in the next month, the storage month shall extend to the last day of the next month. A full month’s storage charge shall apply on receipt of GOODS and an additional monthly storage charge shall apply on each successive storage month on all GOODS then remaining in storage.
(b) COMPANY’S storage and other charges are set forth in the RATE QUOTATION or other document issued by COMPANY to STORER and/or COMPANY’S tariff and may be increased on 30 days notice.
(c) Unless COMPANY specifies otherwise all storage charges are fully earned and are due and payable on the 1st day of storage for the initial month and thereafter on the 1st day of each month.
(d) Rates quoted by COMPANY to STORER, unless otherwise stated, are on a per unit, per cubic foot, per kg or per gross charge.
Section 4 - HANDLING CHARGES.
(a) Unless otherwise specified, handling charges cover only the ordinary labor and duties incidental to receiving and delivering unitized GOODS on pallets or at the WAREHOUSE dock during COMPANY’s normal business hours but do not include loading and unloading.
(b) If otherwise specified, a charge in addition to the regular handling charges will be made for any work performed by COMPANY other than as specified in Section 6(a), at COMPANY’S then current rates which are available upon request.
(c) When GOODS are ordered out in quantities less than in which received, COMPANY may make an additional charge for each order quantity prior to the delivery of that quantity or portion thereof.
(d) Delivery of COMPANY by less than all units of any lot shall be made without subsequent sorting except by special arrangement which may be subject to an additional charge.
Section 5 - TRANSPORT-DELIVERY.
(a) Instructions by STORER to transfer GOODS to the account of another are not effective until accepted by COMPANY. Charges will be made for each transfer and for any rehandling deemed by COMPANY to be required thereby. COMPANY reserves the right not to deliver or transfer GOODS except upon receipt of written instructions signed by STORER.
(b) STORER may authorize COMPANY in writing to accept telephone orders for delivery. In such case, delivery by COMPANY pursuant to telephone order shall be at STORER’s risk.
(c) COMPANY shall have a reasonable time to deliver after GOODS are ordered out and shall have a minimum of ten business days after receipt of a delivery order in which to locate any misplaced GOODS.
(d) Unless the delivery is made in a reasonable time or by prior arrangement, all costs, expenses and other charges incurred shall be billed to STORER.
(e) All instructions and requests for delivery and/or transfer of GOODS are received subject to satisfaction of all charges, liens and taxes. Upon termination of the storage relationship for any reason, COMPANY may refuse to deliver the GOODS until it has been fully paid for all charges then due regardless of the payment terms otherwise applicable to such charges.
(f) COMPANY reserves the right, as a condition to delivery, a statement from STORER holding COMPANY harmless from claims of others asserting rights to the GOODS. COMPANY may also exercise any other remedy available to it under the law to resolve conflicting claims to the GOODS. All costs, charges and expenses, including reasonable attorneys’ fees, incurred by COMPANY relating in any way to COMPANY’s responsibility under this Section 7(d) shall be charged to STORER and shall be deemed charges with respect to the GOODS and subject to Company’s general warehouse lien.
Section 6 - OTHER SERVICES AND CHARGES.
(a) Other services rendered in connection with the interest of STORER or the GOODS are chargeable to STORER.
(b) All charges are due and payable upon the date of invoice. All charges not paid within 30 days from the due date are subject to an interest charge, from the date said charge became due until paid, at the lesser of 1.5% per month or the maximum amount allowed by law.
(c) STORER may, subject to reasonable limitations, inspect the GOODS when accompanied by an employee of COMPANY where reasonably and practically possible.
(d) The GOODS are in good order and condition and are being stored in a suitable manner to prevent damage.
(e) In the event of damage or threatened damage to the GOODS, STORER shall pay all reasonable and necessary costs of protecting and preserving the GOODS and for cleanup and disposal of damaged and destroyed Goods. When such costs are attributable to STORER, the labor and other expenses incurred shall be charged to STORER.
(f) Any additional costs incurred by COMPANY in unloading railcars or trucks containing damaged GOODS are chargeable to the party responsible for such damage.
4. VESSEL EQUIPMENT. Vessel is to supply adequate elevators and cranes in good order and with sufficient power for their efficient operation and with necessary and current safety inspection certificates, and lights for night work. Vessel shall also supply special handiwork equipment on board the vessel necessary to discharge or load Customer’s cargo.

5. EXTRA LABOR SERVICES. When cargo or other labor services or equipment are ordered by the Customer, or when SEANOUS is required to perform any services that interrupts or is necessary to maintain normal operations, including but not limited to the services listed below, SEANOUS will be paid per SEANOUS’ rate quotation. Any service not specifically stipulated as included in the rates on SEANOUS’ quotation (including but not limited to the following) is to be considered an extra service.

A. Handling ship’s mail, parcels, and stores.
B. Lashing, securing, unloading of cargo and cleaning of holds. All work will be performed under the direction, control, and supervision of the vessel’s Master and/or Chief Officer who shall have the ultimate responsibility for the sufficiency of such lashing and securing the Customer expressly agrees to hold SEANOUS harmless for any indemnity it claims against any claims, demands or suits whatsoever relating to insufficiency or illegality of lashing and securing of cargo.
C. Handling of cargo, not in customary good order delaying prompt handling, or when bulk cargo is required to be broken out by mechanical equipment.
D. Shifting, re-handling, re-sorting, or re-stowing cargo through no fault of SEANOUS.

6. DETENTION, WAITING, LAY TIMES. When cargo or other labor is delayed or employees are detained, or, when cargo or additional labor are employed and unable to work through causes beyond SEANOUS’ control, or when labor is to be paid for a minimum working period of time in accordance with the customs and practices of the port where the vessel is working, including but not limited to the circumstances that follow, such time will be charged for as rates for services provided in SEANOUS’ rate quotation:

A. Failure of vessel to arrive or arrive late;
B. Failure of vessel, gear, equipment, or vessel supplied gear or equipment;
C. Weather;
D. Vessel unable to stay alongside;
E. Government clearance;
F. Civil Unrest

7. OVERTIME, HOLIDAYS, MEAL, OVERHOURS, Overtime, holidays, and meal hours, when worked at the request of the Customer, will be charged for on the basis of the rates in SEANOUS’ quotation.

8. LABOR ORDERS AND MINIMUM CALL PERIODS. Labor orders for 0700 through 1800 starting times are to be received from the Customer by 1600 the previous day. Labor orders for 0900 or later starts are to be received from the Customer by 1100 that day Labor orders for Mondays that are not holidays are to be received from the Customer by 1800 on the preceding Saturday. Labor orders for the day after a holiday is to be received from the Customer by 1600 on the latest regular working day. Labor may be set back or canceled one time only with such orders received from the Customer prior to four (4) hours before the original ordered starting time with no penalty of minimum call time. Labor may be added for extra services during an operation based on availability upon authorization by the Customer. The minimum call time is to be set at four (4) hours on regular working time starting days and the four (4) hours for starts on Saturday, Sundays, holidays. The applicable minimum call time, if labor is unable to work through no fault of SEANOUS will be billed to the Customer at the detention and overtime rates, as applicable, provided in SEANOUS quotation.

9. TRAVEL TIME AND TRANSPORTATION. When SEANOUS is required to work at locations where travel is required to be paid employees in accordance with the customs and practices of the port, such travel time will be charged for at cost. When vessels are worked in the stream or other places where means of transportation for the men are required or meals allowances must be paid in accordance with the customs and practices of the port, any expenses incurred will be charged for at cost.

10. INSURANCE. The rates quoted include the cost of and, SEANOUS agrees to maintain in full force, Workers’ Compensation Insurance covering statutory liability for injury or death sustained by its employees.

11. LIMITATIONS: HIMALAYA AND PARAMOUNT CLAUSE. Every exemption, limitation, condition and liability contained in any bill of lading applicable to the cargo or vessel for which SEANOUS has provided stevedoring services or any other services provided pursuant to its Stevedoring Proposal, and every right, exemption from liability, limitation of liability for damages, defense and indemnity of whatsoever nature applicable against the claim of any holder of any bill of lading covering the cargo, or applicable to any claim of Customer against vessel interests, vessel owners, stevedores or charter’s, and every exemption, limitation, condition and liability benefiting the Customer or to which the Customer might have availed itself in any charter negotiation or bill of lading issued pursuant to charter, or any bill of lading governed by the Hague Rules contained in the International Hague-Visby Rules Convention for the Unification of Certain Rules relating to Bills of Lading dated 25 August 1924 (hereinafter referred to as the “Hague Rules”) and any legislation making those Hague Rules compulsorily applicable to bills of lading, including the Damage of Goods by Sea Act of the United States of America, approved 16 April 1930, shall also be available and shall be deemed as between the parties hereto as applicable, specifically including, but not limited to, limitation of liability for damaged cargo of $500 per package, and $500 per customary freight unit for damage to goods not shipped in packages. Customer agrees that the exemption and limitation to the extent of SEANOUS and agreements applicable at all times and locations SEANOUS provides services, and regardless of whether the cargo is on board the vessel or before or after the cargo is in the vessel’s tackle. Through Customer’s dealings and contractual arrangements with its related entities, companies, personnel, interests, owners, operators or chartered and/or the issuance of appropriately worded bills of lading, charter agreements, figures and similar arrangements, Customer will extend all available defenses and limitations to the benefit of SEANOUS, specifically including but not limited to any COUSA defenses to liability and limitation of damages of $500 per package or customary freight unit for goods not shipped in packages, and/or COUSA is not applicable. The Hague Rules. In any event, regardless of Customer’s knowledge under a bill of lading, Customer’s related entities and SEANOUS, to be so bound by a limitation of liability for damage to cargo in the amount of $500 per package.

12. INDEMNITY AND LIMITATION OF LIABILITY A. VESSEL UNSEAWORTHINESS, FAULT, OR FAILURE TO EXTEND LIMITATIONS. In the event Customer is owner, charterer, sub-charterer, agent, manager, or owner pro hac vice of the vessel receiving stevedoring services hereunder, customer warrants and agrees to indemnify and hold SEANOUS harmless for any and all costs, damages, injury, death or delay caused in whole or in part, by breakdown or failure or fault in the vessel’s gears, by or through fault or negligence of vessel’s officers or crew, or by any unseaworthiness of the vessel, however created. If Customer creates or controls the circumstances under which loading, unloading, or services are rendered, Customer agrees, and Customer hereby waives the vessel or Customer to perform any obligation hereunder or in the Stevedoring Proposal, including but not limited to, Customer’s failure to extend limitations of liability for the benefit of SEANOUS as required, and SEANOUS is expressly released from liability for damages in excess of any such limitations. Customer promises and agrees to indemnify and hold SEANOUS harmless for any such damages or interest exceeding any such limitation amounts, as well as the costs of defending any such claims, including attorney’s fees, and costs. For such limitations SEANOUS shall not be liable, directly or indirectly, for, loss, costs (including attorney’s fees), damage, injury, death, delay, or delay unless caused wholly by and due solely to negligence of SEANOUS, its employees or agents. Such liability shall be as a stevedore and not as a bailee. As there are no implied or express warranties other than those expressly contained in these terms and conditions. It is specifically agreed that SEANOUS makes no express or implied warranty of workmanlike performance. SEANOUS will not be responsible for damages which may occur in the course of normal handling due to movement of cargo during the voyage, previously loaded cargo, or insufficient packing and coding.

13. FORCE MAJEURE, ABNORMAL CONDITIONS, ETC. In the event of force majeure, act of God, war, civil disturbance, fire, severe storm or terminal congestion, strike, lockout, union disputes, deliberate work slow down or stoppage or other labor difficulties or other abnormal conditions, which materially interfere with SEANOUS normal operations, SEANOUS reserves the right to attempt to perform, do so in its option, on a basis to be mutually agreed upon between SEANOUS and Customer for such each job.

14. WHARFAGE, CARGO ASSESSMENTS CUSTOMS DUTY, ETC. Customer shall pay all wharfage, delivery and related charges, port usage fees and/or assessments, as well as any customs duty or similar charges, and shall hold SEANOUS fully harmless in respect thereof.

15. DAMAGED CARGO, DANGEROUS CARGO OR CONDITION, AMMUNITION AND EXPLOSIONS. When handling cargo burning or damaged by fire, water, oil, etc., and where such damage caused unusual distress or obnoxious conditions, or in all cases where longshoremen are called upon to handle cargo under dangerous, obnoxious or dangerous conditions, hauling, unloading, or carriage is subject to special conditions. It is mutually agreed between SEANOUS and Customer for each such job. SEANOUS reserves the right to refuse to load or discharge, without liability for default hereunder, any cargo in these instances wherein, because of the nature of the cargo, the statute, court, or custom, or due to the operations required, it will be mutually agreed that such handling will seriously endanger the lives, safety, or health of its employees. When such cargoes are loaded or discharged, charges will be made on a basis to be mutually agreed upon between SEANOUS and Customer for such each job.

16. POLLUTION. Notwithstanding any other provision herein contained, it is expressly agreed that Customer will hold SEANOUS harmless from and indemnify it against any loss, damage, cost, liability, expense, fine, penalty, or claims of any kind or nature whatsoever arising from or in connection with cargo subject to these terms and conditions which might be brought against SEANOUS directly or indirectly in connection with or with respect to any discharge, spillage or leakage upon or into the seas, waters, lands or with respect to or as a result of any Federal or State pollution prevention legislation.

17. SERVICES ORDERED BY OTHERS. Customer undertakes responsibility for payment of all services performed by SEANOUS whenever such services are provided at the verbal or written request or order of the Port Authority or terminal operator.

18. TERMS. This Agreement may be revised, modified or amended only by mutual agreement in writing.

19. PAYMENT. SEANOUS’ accounts for all services performed and materials supplied shall be due and payable immediately upon rendering of such services, unless stated otherwise on SEANOUS’ rate quotation. In the event Customer is owner, charterer, agent, manager, or owner pro hac vice of the vessel receiving stevedoring services hereunder, it is expressly understood and agreed the services contemplated are to be performed on the credit of the vessel without which SEANOUS would not provide same, and SEANOUS shall have the right of action against the vessel or any other property for payment in full. In the event Customer is owner or agent of any owner of the cargo subject to these terms and conditions at any time prior to the release of such cargo by SEANOUS to Consignee or Customer, Consignee hereby grants and pledges to SEANOUS a continuing security interest in such cargo to secure the payment of all obligations, arising under these terms and conditions, whether the same may arise for present or future cargo shipments. This Security Agreement creates a valid and perfected security interest in the cargo. In the event any cargo which is the subject of these terms and conditions is stored, a warehouseman’s lien shall arise in favor of SEANOUS. It is understood that any lien will not be exercised by SEANOUS against other customers of SEANOUS at the expense of the customer of the lien (10 percent) per annum, commencing at the time payment is due hereinafter, and may suspend further vessel operations for account of Customer until all outstanding charges have been satisfied. It is further agreed that Customer shall not deliver from or set off against SEANOUS invoices any claims, whether liquidated or non-liquidated, for any reason whatsoever. In the event that litigation is required to order in collect any amount due hereunder, all legal costs including attorney fees shall be the responsibility of Customer. Any lawsuit or other action against SEANOUS must be brought in the state or province where the services are performed or located and will be governed by the laws of such state or province.

In exchange for stevedoring services provided by SEANOUS, Customer agrees to the above terms and conditions.