

AMOND WORLD

MASTER COLD STORAGE AND HANDLING AGREEMENT

This **MASTER COLD STORAGE AND HANDLING AGREEMENT** (the “**Agreement**”) has an Effective Date of _____, 20__, and is by and between AMOND WORLD, LLC, a California limited liability company, hereinafter referred to as “**PROVIDER**” and _____, a/an _____, hereinafter referred to as “**CUSTOMER**” (Customer ID No. _____) (individually “**Party**” and collectively the “**Parties**”).

PROVIDER operates a cold storage facility located at: 2647 Condor Road, Madera, CA 93637 (the “**Cold Storage Facility**”). CUSTOMER is a grower, wholesaler, and/or packer of agricultural or other products (“**Product**”). CUSTOMER seeks Cold Storage Services for its Product. CUSTOMER hereby retains PROVIDER to receive, store, pre-cool, remove and load (collectively, the “**Cold Storage Services**”) the Product at the Cold Storage Facility. CUSTOMER or its assigned representative shall deliver the Product to the Cold Storage Facility in a pre-cooled condition in accordance with industry standards.

AGREEMENT

GENERAL TERMS. The following table contains the general terms of this Agreement, subject to change or modification by PROVIDER, including the fees identified below which are only applicable to the first, initial term of this Agreement:

Handling Fee:	\$16.00 per bin or pallet of Product at delivery, each relocation (move), and at removal.
Monthly Raw Product Storage Fee:	\$40.00 per bin of stored Product- <i>proof of fumigation and a completed Customer Questionnaire (Exhibit B) required upon each delivery.</i> (bin size: 48’x48”x52”)
Daily Finished Product Storage Fee:	\$1.50 per pallet, per day of stored Product (minimum 7 days).
Excluded Services:	PROVIDER’s services consist only of handling and storage of Product, all other services are excluded including, but not limited to, fumigation, pre-sorting, grading, or packing of Products
Term:	<p>The Monthly Raw Product Agreement Term is thirty (30) days and automatically renews for an additional thirty (30) day term unless written notice of cancellation is given by either party on or before the fifteenth (15th) day of the then current term and Product removed on or prior to the expiration of the current term.</p> <p>The Daily Finished Product Agreement Term is seven (7) days and automatically renews for an additional seven (7) day term unless written notice of cancellation is given by either party on or before the fifth (5th) day of the then current term and Product removed on or prior to the expiration of the current term.</p>
Notice Addresses:	<p><u>CUSTOMER:</u></p> <p>_____</p> <p>Telephone: (____) ____ - ____</p> <p>Email: _____</p> <p><u>PROVIDER:</u> 2647 Condor Road, Madera, CA 93637</p> <p>Telephone: (____) ____ - ____</p> <p>Email: _____</p>

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CHARGES AND FEES. CUSTOMER will receive an Invoice at the expiration of each Raw Product Term and monthly for Finished Product. Each Invoice *is subject to and incorporates all terms and conditions of this Agreement*. In the event of any conflict between the terms and conditions of any Invoice and this Agreement, the terms and conditions of this Agreement shall prevail. Payment is due within fifteen (15) days of receiving an Invoice from PROVIDER. Interest on any delinquent amounts over fifteen (15) days past due shall be assessed interest at the lesser of 1.5% per month or the maximum legal rate.

HOURS OF OPERATION. Cold Storage Facility hours of operations shall be Monday through Saturday 7:00 am to 5:00 pm (receiving) and 7:00 am to 3:00 pm (shipping) and closed on Sunday. PROVIDER requires no less than Forty-Eight (48) hours' advance notice of delivery or loading.

STORAGE AND SERVICES.

PROVIDER will exercise reasonable care and skill in performing the Cold Storage Services at common industry standards, including providing suitable cold storage space for the Almonds maintained at between 32 -40 degrees Fahrenheit and between 55%-65% humidity (i.e., within the recommended temperature range for pre-cooled Product).

PROVIDER will supply staff at the Cold Storage Facility for receiving and storage of all inbound Product delivered by CUSTOMER, or its assigned representatives, to the Cold Storage Facility. PROVIDER will supply staff for removal from storage and loading of the Product from the Cold Storage Facility during business hours or at a time as mutually agreed upon in advance by the Parties.

Upon the expiration of the Term of this Agreement and following five (5) days' written notice to CUSTOMER, CUSTOMER gives PROVIDER the right to dispose, at CUSTOMER's expense, of any Product that remains at the Cold Storage Facility. PROVIDER also reserves the right, following the same five (5) days' written notice to CUSTOMER, to dispose of Product that it determines, in its sole discretion, to have perished, spoiled or otherwise become no longer appropriate for storage.

PRODUCT AS SECURITY. CUSTOMER's Product shall serve as security for payment of any and all amounts due and owing from CUSTOMER to PROVIDER under this Agreement. PROVIDER shall have all of its common law, contractual, and statutory lien rights including, but not limited to, Cold Storage liens, Carrier, and Warehouseman's liens. CUSTOMER hereby agrees and consents that PROVIDER, at its sole discretion, may file UUC-1 financing statements with the California Secretary of State securing CUSTOMER's Product as collateral for payments due and owing under this Agreement.

“PROVIDER”

“CUSTOMER”

AMOND WORLD, LLC
a California limited liability company

a/an _____

By: _____
Its: _____

By: _____
Its: _____

[Additional Terms and Condition Below

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TERMS AND CONDITIONS

INDEMNIFICATION: CUSTOMER shall indemnify, defend and hold harmless PROVIDER and its landlord Origo Cold Storage Madera Phase I, LLC, (“LANDLORD”) or its predecessor in interest, and their respective members, affiliates, owners, partners, members, directors, officers, agents, contractors, and employees (collectively, “**Indemnified Parties**”) from and against any and all Losses (defined below) arising from or in connection with any or all of: (a) any condition created by any or all of CUSTOMER, its employees, agents, contractors or representatives (collectively, the “**Customer Parties**”) in or about the Cold Storage Facility; (b) any act, omission or negligence of any or all of CUSTOMER or Customer Parties; (c) any accident, injury or damage whatsoever occurring in, at or upon the Cold Storage Facility and caused by any or all of CUSTOMER or Customer Parties; and (d) Loss related to or caused by or contributed to by CUSTOMER’s Product. In the event any action or proceeding is brought against any or all of CUSTOMER, Landlord and the Indemnified Parties by reason of any matter covered by the foregoing indemnity, CUSTOMER, upon notice from any or all of PROVIDER, Landlord or Indemnified Parties, CUSTOMER shall resist and defend such action or proceeding by counsel reasonably satisfactory to, or selected by, PROVIDER, Landlord or Indemnified Parties as the case may be. The term “Losses” shall mean all claims, demands, expenses, actions, judgments, damages, natural resource damages, diminution in value of the Cold Storage Facility, penalties, fines, liabilities, losses of every kind and nature, suits, administrative proceedings, costs and fees, including, without limitation, attorneys’ and consultants’ reasonable fees and expenses, and the costs of investigation, cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing indemnity. The indemnification obligations herein survive termination of the Agreement.

WAIVER OF WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED WITH RESPECT TO THE COLD STORAGE SERVICES AND THE COLD STORAGE FACILITY.

INSURANCE. See Exhibit A.

LIMITATION OF DAMAGES. IN NO EVENT SHALL PROVIDER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY GENERAL, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES RELATED TO CONTAMINATION, DISEASE, INFESTATION (RODENT OR INSECT), DECAY OR ROT, WATER INTRUSION, SWEATING, WEATHER, ACT OF GOD, CRIMINAL ACTIVITY, FIRE, BURGLARY, POWER OUTAGE, EQUIPMENT OR MACHINERY FAILURE, OR PATHOGEN) ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT OR ANY SERVICES RENDERED BY PROVIDER OR THE CONDITION OF THE COLD STORAGE FACILITY. THE TOTAL LIABILITY OF PROVIDER TO CUSTOMER FOR ANY DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) SHALL NOT EXCEED THE TOTAL FEES PAID BY CUSTOMER HEREUNDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. ONLY TO THE EXTENT LIMITED BY LAW, PROVIDER ACCEPTS NO RESPONSIBILITY FOR THE PRODUCT RECEIVED INTO STORAGE AND STORED BY PROVIDER AT THE COLD STORAGE FACILITY AT CUSTOMER’S SOLE AND ABSOLUTE RISK.

FORCE MAJEURE. A Party shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to, acts of God, fire, war, strikes or labor disputes, lockouts, embargoes, government orders or any other force majeure event unless caused by said Party’s own act or failure to perform, then such cause shall not excuse performance of the terms and conditions of this Agreement.

RELATIONSHIP OF PARTIES. The Parties intend that an independent contractor relationship will be created by this Agreement. Neither PROVIDER nor its employees are to be considered an agent or employee of CUSTOMER for any purpose.

LEASE TERMINATION. In the event of a termination of the Lease for any reason whatsoever, PROVIDER and CUSTOMER each agrees that upon such a termination PROVIDER’s rights, obligations and interest in this Agreement shall automatically be assigned to Landlord, and that in the event of such assignment, Landlord shall not: (i) be liable for any act or omission of PROVIDER with respect to events occurring prior to assignment, or (ii) be subject to any offsets or defenses which CUSTOMER might have against PROVIDER.

MISCELLANEOUS.

Title to Product. CUSTOMER will at all times retain all rights, title and interest in all Product received, stored, handled at and/or shipped at or from the Cold Storage Facility, and all such Product shall remain the property of CUSTOMER. CUSTOMER shall retain ownership of all damaged or spoiled Product. PROVIDER is not liable for the Product or any losses relating to the Product before arrival of Product to the Cold Storage Facility and once the Product leaves the Cold Storage Facility.

Notice. Any notice required to be given by either party pursuant to this Agreement, shall be in writing and shall be deemed to have been properly given if personally delivered, sent by commercial overnight delivery service, email, or by first-class mail addressed to the other party at the addresses set forth hereinabove.

Binding Effect. CUSTOMER shall not assign this Agreement without the prior written consent of PROVIDER. PROVIDER may assign this Agreement in connection with an assignment of PROVIDER’s leasehold estate under the Lease.

Governing Law/Attorney Fees. This Agreement shall be governed by the law of the State of California. Venue is proper only in the Superior Courts of the County of Madera. The prevailing party to any action brought to enforce or interpret this Agreement shall be entitled to an award of its attorneys’ fees and court costs.

Severability. If any provision of this Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction or any governmental authority, such provision will be treated as severable and shall neither invalidate nor render unenforceable any other provision of this Agreement, whether similar or not.

Waiver. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof.

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EXHIBIT A

INSURANCE PROVISIONS

CUSTOMER shall, upon the delivery of CUSTOMER's Product to the Cold Storage Facility, provide proof of the following insurance policies and policy limits, as well as provide endorsements naming PROVIDER, LANDLORD, LANDLORD's lender, and any other third-parties reasonably requested by PROVIDER, as Additional Insureds under the policies:

1. Stock Throughput Insurance. Stock throughput insurance covering its Product with a coverage limit equal to or greater than the value or replacement value of the Product stored.
2. Liability Insurance. Commercial general liability insurance covering death, bodily injury, and property damage with coverage limits of not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate.
3. Worker's Compensation Insurance. Workers compensation insurance covering its employees for employees with coverage limits of not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate.
4. Automotive Insurance. Automotive liability insurance on the personnel and automobiles entering the Cold Storage Facility and the surrounding premises, with coverage limits of not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate.
5. Product Coverage. In the event CUSTOMER does not have stock throughput coverage as described above, CUSTOMER shall obtain and have in full force and effect an off-site storage insurance policy in an amount sufficient to cover its Product from and against any damage resulting from contamination, disease, infestation (rodent or insect), decay or rot, water intrusion, sweating, weather, act of God, criminal activity, fire, burglary, power outage, equipment or machinery failure, or pathogen

All insurance policies required under this Agreement shall:

- (1) Be issued by insurance companies authorized to do business in the State of California, with a financial rating of at least an A, AVII status as rated in the most recent edition of A M Best's Insurance Reports;
- (2) Be issued as a primary policy; and
- (3) Contain an endorsement requiring thirty (30) days written notice from the insurance company to all parties and LANDLORD's lender prior to cancellation, change or non-renewal in the coverage, scope, or amount of any policy.

Insurance required under this Exhibit A shall in no way reduce the indemnity obligations of CUSTOMER under the Agreement.

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EXHIBIT B

CUSTOMER QUESTIONNAIRE

Amond World requests your cooperation in verifying that your company meets our Food Safety requirements. As part of our GFSI based program, we must adhere to strict GFSI supplier approval guidelines. All current approved suppliers and future suppliers are required to provide the following information in order for us to maintain good standing business relationship:

Company Name (Agent / Broker)	
Company Address	
Contact Person	
Position	
E-Mail	
Telephone Number	

At what temperature was your product last stored? (°F): _____

Certifications:

Valid Certifications to the applicable GFSI scheme is required for all storage products.

	Yes	No	Evidence
GFSI Certificate ie; SQF, BRC, Primus, Global GAP etc.			Please attach GFSI Certificate.
If "No," please describe your Pest Control program (Contracted / In-House, Frequency):			

Storage Records:

	Yes	No	Evidence
Has the product been fumigated?			Fumigation Records. Not to exceed 20 days from fumigation date.
Organic Storage			If Yes, Cold Storage Records Required.

Completed By:	
Signature:	
Date:	