

MASTER SERVICES AGREEMENT - SWIFTLOGISTICS INC

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is entered into as of April 25, 2020 ("Effective Date"), by and between Acme Corp., a Delaware corporation with its principal place of business at 123 Innovation Drive, Future City, CA 90210 ("Buyer"), and SwiftLogistics Inc., a Nevada corporation with its principal place of business at 456 Distribution Way, Logi-City, NV 89101 ("Vendor"). Buyer and Vendor may be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Vendor is in the business of providing logistics, supply chain management, and related professional services;

WHEREAS, Buyer desires to engage Vendor to provide such services, and Vendor is willing to provide such services to Buyer, all under the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1 "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a Party.

1.2 "Agreement" means this Master Services Agreement, including all Schedules, Exhibits, and Statements of Work attached hereto or incorporated by reference.

1.3 "Confidential Information" has the meaning set forth in Section 7.

1.4 "Deliverables" means the specific work products, reports, or other items to be delivered by Vendor to Buyer as identified in a Statement of Work.

1.5 "Services" means the professional services, functions, and responsibilities to be performed by Vendor as described in one or more Statements of Work.

1.6 "Statement of Work" or "SOW" means a written document, substantially in the form attached as Exhibit A, executed by both Parties that describes the specific Services and/or Deliverables to be provided by Vendor, including any applicable fees, timelines, and other details.

2. SCOPE OF SERVICES

2.1 Statements of Work. The specific Services to be provided by Vendor under this Agreement shall be described and defined in one or more SOWs, which shall be mutually agreed upon and

executed by the Parties from time to time. Each SOW shall be incorporated into and become a part of this Agreement. In the event of a conflict between the terms of this Agreement and the terms of an SOW, the terms of this Agreement shall prevail unless the SOW expressly states its intent to supersede a specific provision of this Agreement.

2.2 Performance. Vendor shall perform the Services in a professional and workmanlike manner, consistent with industry standards.

3. FEES AND PAYMENT

3.1 Fees. In consideration for the Services, Buyer shall pay Vendor the fees set forth in the applicable SOW ("Fees").

3.2 Invoicing. Vendor shall invoice Buyer on a monthly basis, or as otherwise specified in the applicable SOW. All invoices shall be sent to the address specified by Buyer and shall reference the applicable SOW.

3.3 Payment Terms. Buyer shall pay all undisputed invoices within thirty (30) days of the invoice date.

3.4 Late Payments. Any undisputed amounts not paid when due will be subject to a late fee of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever is less.

3.5 Taxes. All Fees are exclusive of any sales, use, value-added, or other applicable taxes, which shall be the sole responsibility of Buyer.

4. TERM AND TERMINATION

4.1 Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years (the "Initial Term").

4.2 Renewal. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each a "Renewal Term"), unless either Party provides written notice of its intent not to renew at least sixty (60) days prior to the end of the then-current term.

4.3 Termination for Cause. Either Party may terminate this Agreement or any SOW upon written notice if the other Party:

(a) materially breaches any provision of this Agreement and fails to cure such breach within thirty (30) days of receiving written notice thereof; or (b) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

4.4 Effect of Termination. Upon termination or expiration of this Agreement, Buyer shall pay Vendor for all Services performed and expenses incurred up to the effective date of termination. The provisions of Sections 3, 5, 6, 7, 8, 9, 10, and 12 shall survive any termination or expiration of this Agreement.

5. CONFIDENTIALITY

5.1 Definition. "Confidential Information" means any and all non-public information disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party"), whether

orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

5.2 Obligations. The Receiving Party agrees to: (a) use the Confidential Information solely for the purpose of performing its obligations under this Agreement; (b) not disclose the Confidential Information to any third party without the prior written consent of the Disclosing Party; and (c) protect the Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature, but in no event less than a reasonable degree of care.

5.3 Exclusions. Confidential Information does not include information that: (a) is or becomes publicly known through no wrongful act of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

6. INTELLECTUAL PROPERTY

6.1 Vendor IP. Vendor shall retain all right, title, and interest in and to its pre-existing intellectual property, including its software, tools, methodologies, and know-how ("Vendor IP").

6.2 Buyer IP. Buyer shall own all right, title, and interest in and to the Deliverables specifically created for Buyer under an SOW.

6.3 License. Vendor grants Buyer a non-exclusive, royalty-free, perpetual license to use any Vendor IP that is incorporated into the Deliverables, solely for Buyer's internal business purposes.

7. INDEMNIFICATION

7.1 Indemnification by Vendor. Vendor shall indemnify, defend, and hold harmless Buyer, its Affiliates, and their respective officers, directors, employees, and agents from and against any and all third-party claims, liabilities, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or related to the negligence, willful misconduct, or breach of this Agreement by Vendor.

7.2 Indemnification by Buyer. Buyer shall indemnify, defend, and hold harmless Vendor, its Affiliates, and their respective officers, directors, employees, and agents from and against any and all third-party claims, liabilities, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or related to the negligence, willful misconduct, or breach of this Agreement by Buyer.

7.3 Procedure. The indemnified Party shall provide the indemnifying Party with prompt written notice of any claim and shall cooperate with the indemnifying Party in the defense of such claim. The indemnifying Party shall have sole control of the defense and settlement of the claim.

7.4 Cap. The total liability of an indemnifying Party under this Section 7 shall not exceed the total fees paid by Buyer to Vendor under this Agreement in the twelve (12) months immediately preceding the event giving rise to the claim.

8. WARRANTIES

8.1 Disclaimer of Warranties. ALL SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. VENDOR MAKES NO WARRANTY THAT THE SERVICES WILL MEET BUYER'S REQUIREMENTS OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH IN THIS AGREEMENT.

9. LIMITATION OF LIABILITY

9.1 Exclusion of Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Direct Damages Cap. EXCEPT FOR OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION) AND BREACHES OF SECTION 5 (CONFIDENTIALITY), EACH PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AGGREGATE FEES PAID BY BUYER TO VENDOR DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10. INSURANCE

Vendor shall, at its own expense, maintain in full force and effect during the term of this Agreement, the following insurance coverage: (a) Commercial General Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. (b) Workers' Compensation insurance in compliance with statutory requirements. (c) Professional Liability (Errors & Omissions) insurance with limits of not less than \$1,000,000 per claim.

11. GENERAL PROVISIONS

11.1 Force Majeure. Neither Party shall be liable for any failure or delay in performance under this Agreement due to causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, civil unrest, or government action.

11.2 Notices. All notices under this Agreement shall be in writing and sent to the addresses of the Parties first set forth above or to such other address as may be designated in writing.

11.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of laws principles.

11.4 Dispute Resolution. Any dispute arising out of this Agreement shall be resolved through binding arbitration conducted in accordance with the rules of the American Arbitration Association in Wilmington, Delaware.

11.5 Entire Agreement. This Agreement, including all SOWs, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter.

11.6 Assignment. Neither Party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11.7 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

12. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have caused this Master Services Agreement to be executed by their duly authorized representatives as of the Effective Date.

ACME CORP. ("Buyer")

By: _____ Name: Title:

SWIFTLOGISTICS INC. ("Vendor")

By: _____ Name: Title:

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Warranty Status: RISKY Special Notes: None ---