

# Centershift Service Agreement

Agreement Number:

Effective Date:

## Customer Information:

Name:

Address

Contact Person:

Office Phone Number:

Cellular Phone Number:

Fax Number:

Email Address:

## Centershift Information:

Address 2005 East 2700 South, Ste. 140  
Salt Lake City, UT 84109

Contact Person: Mark Smith  
Office Phone Number: 801.303.1330  
Cellular Phone Number: 801.560.0490  
Fax Number: 801.303.1350  
Email Address: msmith@centershift.com

This Service Agreement is by and between Centershift, Inc. (“**Centershift**”) and the above-referenced customer (“**Customer**”) and governs the terms and conditions that apply to Customer’s use of certain Centershift computer software (called Store<sup>SM</sup>), related documentation (manuals, brochures, guides, etc.), whether printed or online, and any updates, revisions or enhancements, along with the services provided in Section 2 below (collectively referred to as the “**Service**”). The parties agree to the following:

1. **Installments and Licenses.** This Agreement grants to Customer one or more of the following licenses for Service installations at Customer’s self-storage facility or facilities listed in Appendix A (collectively referred to as “**Customer Facility**”). Each Customer Facility listed in Appendix A must have its own license for the installation and use of the Service, which license is also listed in Appendix A, and such license is not to be used for any other Customer Facility.

1.1 **Live Installation and Licenses.** A “**Live Installation**” is defined as use of the Service to manage the operational, financial and marketing data for the Customer Facility. If this Agreement is for a Live Installation, Customer is granted a limited, non-exclusive, non-transferable license to use the Service at the Customer Facility, subject to the provisions of this Agreement. Live Installation Customers may copy any printed materials provided as part of the Service, and may print copies of any online customer support documentation, provided that such copies shall be used for internal use only and are not to be republished or distributed, either in hardcopy or electronic form, beyond the Customer Facility or Customer’s corporate office. Any printed materials, which are provided to Customer by Centershift, must be destroyed upon the expiration or earlier termination of this Agreement. There are two types of licenses granted for a Live Installation, as follows:

- (a) a “**Purchase License**,” which continues to be in effect until terminated as set forth in this Agreement; and
- (b) a “**Subscription License**,” which is granted for the Term set forth above, renewable annually thereafter.

1.2 **Parallel Installation.** A “**Parallel Installation**” is defined as use of the Service in a side-by-side testing environment with live data. If this Agreement is for a Parallel Installation, Customer is granted a limited, non-exclusive, non-transferable license to use the Service at the Customer Facility for a period of up to sixty (60) days, renewable for an additional thirty (30) days. Customer may not copy any printed materials provided as part of the Service, or print copies of any online customer support documentation. If, prior to the end of the Parallel Installation license term, Customer has not purchased a Live Installation (as defined in Section 1.1), any printed materials, which are provided to Customer, must be immediately returned to Centershift at the end of the Parallel Installation license term. Customer agrees to pay Centershift a fee, in an amount determined by Centershift, for any printed materials not returned. In addition, Customer agrees to pay Centershift the fees for any of the Fee Services listed in Appendix A used by Customer during the Parallel Installation license term, including a data conversion fee if Customer purchases a Live Installation license after the Parallel Installation license term. Continued use of the Service after the Parallel Installation license term has expired will constitute acceptance of a Live Installation under the terms and conditions described herein.

## 2. **Features of the Service.**

2.1 **Core Functionality.** A core functionality is included in the Service for the general operational, financial and marketing management of self-storage facilities and the reporting of the related management activities.

### 2.2 **Support.**

- (a) A web-based support system, or Online Help Desk, is provided as part of the Service. Support is provided in a ticket-based system, allowing users and support personnel to track, respond to and resolve technical and procedural support issues. Customer understands and agrees that the online and telephone technical support offered by Centershift is for the support of problems associated with the operation and function of the Service only, and

that it is not a substitute for training. Centershift is not required to support inadequately trained personnel. In addition, Centershift is not responsible for and will not attempt to provide support for nor respond to any problems of a business or policy nature.

- (b) Centershift agrees to review Online Help Desk tickets within one (1) hour of submission, but makes no guarantee as to the time frame within which such Online Help Desk tickets will be resolved. Centershift agrees to answer Telephone Help Desk tickets within one (1) hour of receipt, provided that the Customer is current in their account at Centershift, but makes no guarantee as to the time frame within which such Telephone Help Desk tickets will be resolved.
- 2.3 **Credit Card Processing Gateway.** A gateway to allow manual and automated credit card payment processing, through approved Processors, using Customer's merchant account and bank account, is included with the Service. Customer is responsible, at Customer's expense, for all fees associated with the use of this feature, including account setup fees, transaction fees and other banking fees. The Service can utilize any one of several processing gateways, selected at Customer's discretion.
- 2.4 **Security Gate Interface.** An integration module linking the Service with the local security gate system is provided as part of the Service. Configurable with a specific security gate system, this module manages the transfer of data from the Service to the gate management system.
- 2.5 **Web Site Hosting.** An application access web page, unique to the Customer, is provided as part of the Service. This web page is offered in a generic template form with functionality to process online payments and reservations, access Tenant information and report on Tenant transactions.
- 2.6 **Financial Integration.** A financial integration/export tool is provided as part of the Service. This tool allows the export of certain financial data to a format which is compatible with popular spreadsheet and accounting software applications.
- 2.7 **Extranet Reporting.** A secure extranet reporting environment, accessible by third parties, is provided as part of the Service. This environment is offered in template form and is self-administrable by the Customer.
- 2.8 **Links.** The Service may provide links to other World Wide Web sites or resources that are owned and operated by third-party vendors and other third parties not in the control of Centershift or its affiliates. These links, if provided, are provided for the Customer's convenience only and are not essential for the operation or use of the Service. Customer acknowledges and agrees that Centershift and its affiliates are not responsible for the availability of such external sites or resources, and that Centershift does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. Customer further acknowledges and agrees that Centershift and its affiliates shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such site.

- 2.9 **Upgrades and Enhancements.** Centershift reserves the right to change the Service by the addition or expansion of features through Upgrades or Enhancements. Upgrades are additions to the Service of features and/or functions which change the operation of the Service in a significant way. Enhancements are changes or additions to Centershift's computer software, which are functional improvements, including error corrections, to existing features of Centershift's computer software that do not change the basic functionality of the Service. Enhancements include those improvements made generally available to Centershift customers at no additional cost. Centershift will use all reasonable means to communicate to Customer the details of Upgrades and Enhancements prior to their implementation. Customers under a Subscription License WILL NOT be charged for Upgrades or Enhancements made to the Service during their license period. Customers under a Purchase License WILL be charged for Upgrades made to the Service, but WILL NOT be charged for Enhancements made to the Service. The Upgrade fee to Customers under a Purchase License will be determined at the time the Upgrade is implemented by Centershift. Customers under a Purchase License MAY ELECT not to acquire the Upgrade functionality, subject to Centershift support of prior versions of the Service.
- 2.10 **Other Features.** Centershift may make certain other features available to Customer as additional services ("**Additional Services**") for an additional fee. These Additional Services may include, but are not limited to, centralized letter mailing, telephone support, call center integration, and hardware and connectivity services. Any Additional Services to be performed by Centershift, and the fee charged for the same, are described on the attached Summary of Services (Appendix A). Centershift may, at Customer's request and for an additional fee, create specific Service functionality unique to Customer. Such unique features may include, but are not limited to, consultancy services, custom web site or extranet development, reports and training programs. The nature and scope of these services will be contracted for separately on a time and materials basis at the rates prevailing when delivered. Development of any such unique features will be governed by a separate Statement of Work, signed by both parties.
- 2.11 **Performance Standards.**
- (a) Customer understands and agrees that the Service will be available twenty-four (24) hours each day, seven (7) days each week, operational 98.5% of the time, measured annually, excluding any scheduled downtimes. Scheduled down times will be announced eight (8) days in advance and will be scheduled on any Saturday at 8:00 p.m. Mountain time. Downtime occurs when the Service stops responding to reporting requests for data or is unavailable to process operational transactions. Down time begins when confirmed by the Centershift help desk and a ticket is logged. Once down time occurs in the Service, Centershift will mobilize promptly to diagnose, troubleshoot and correct the problem and restore the Service to normal operations. Down time ends when the Service is restored to normal operations.

- (b) Customer understands and agrees that down times in excess of 1.5% measured on an annual basis could be experienced due to down times of the following:
  - (i) Customer's Internet Service Provider;
  - (ii) Customer's telecommunications provider;
  - (iii) Centershift's Internet Service Provider; or
  - (iv) Centershift's telecommunication provider.
- (c) Customer understands and agrees that down times attributable to any of the above circumstances are beyond Centershift's control and will not be included in calculating Centershift's uptime availability.
- (d) Customer understands that Centershift will perform certain accounting, administrative and reporting tasks ("**Nightly Processing**") each night beginning at approximately 8:00 p.m. Mountain time and ending the following morning at approximately 4:30 a.m. Mountain time. Customer understands that transactions entered after the start of nightly processing may not be accurately reflected in Customer's data and that users accessing the Service during the hours of Nightly Processing may experience slight delays in the performance of certain tasks.

### 3. **General Terms of the Service.**

- 3.1 **Term of Agreement, Renewal and Commencement of Service.** This Agreement shall be effective as of the Effective Date given above and shall continue for the period of time set forth in Appendix A as the Term ("**Initial Term**"), unless terminated earlier pursuant to Section 6 below. Customer's obligation to pay the fees set forth in Section 5.1 shall begin at the commencement of the Service at the Customer Facility. Service shall not commence until Centershift has received this signed Agreement and the payment of fees specified in Appendix A for such Customer Facility.

The Term of the Agreement shall automatically and continuously be renewed for the same period of time as the Initial Term set forth in Appendix A ("**Renewal Term**"), upon all of the same terms and conditions applicable to the Initial Term, including amendments, except for the amount of the fees and charges, until terminated pursuant to Section 6, or unless terminated at the end of the Initial Term or any subsequent renewal Term by either party by giving the other party written notice of termination at least ninety (90) days prior to the end of the Initial Term or any Renewal Term.

- 3.2 **Contact Persons.** Each party shall designate one person ("**Contact Person**") to act as the primary relationship contact between the parties. These contact persons are designated at the beginning of this Agreement. To the extent possible, all directions, instructions, inquiries, responses, and other communications relating to the Agreement will be managed by each party's Contact Person. Specific software technical support issues, whether communicated online or via telephone or fax, are outside the scope of this Section.
- 3.3 **Access to Service.** Customer acknowledges and agrees that Customer is responsible, at Customer's expense, to provide for its own access to the World Wide Web and to

pay any service fees associated with such access. In addition, Customer must provide and maintain all equipment necessary to make such a connection to the World Wide Web, including a computer and modem or other access device. Customer agrees that any computer used by Customer's business and employees to access the Service will conform to the system requirements outlined in the attached Appendix B, including the configuration of the computer's web browser settings. Customer understands and agrees that Centershift is not responsible for any data communication connectivity as it relates to the Customer's local and long distance telephone company and Internet service provider.

- 3.4 **Recommended Environment.** The Service has been designed to work optimally in the environment documented within the system requirements in the attached Appendix B. Customer understands and agrees that use of the Service requires a stable operating environment for optimal performance and reliability, and that support of the Service is based on maintaining the equipment used to access the Service as defined within the system requirements. Any defects, inconsistencies, or issues arising from failure to maintain the equipment used to access the Service, changes to the equipment configuration by Customer's personnel, or operation of the equipment outside the parameters set forth in Appendix B may require Customer to pay additional maintenance and/or upgrade costs to Centershift for support and/or correction of such defects, inconsistencies or other issues. Customer acknowledges that new functionality may change the system requirements as outlined in Appendix B and that Customer's use of such new functionality may require Customer to acquire new or upgrade its existing equipment or software. To the extent possible, functionality requiring a change in the system requirements will be implemented only as an Upgrade as defined in Section 2.9.
- 3.5 **Customer's Registration Obligations.** In consideration of Customer's use of the Service, Customer agrees to provide true, accurate, current and complete information about itself and/or its organization, including organization data used to identify the Customer and allow others to contact the Customer ("**Customer Business Information**"), and to maintain and promptly update such information to keep it true, accurate and complete.
- 3.6 **Passwords, Security and Access.** Customer may designate any number of users as are necessary for its organization, define the level of access to the Service and assign passwords and personal identification numbers ("**PIN**") to such users. Customer will be responsible for the confidentiality and use of such user name(s), PIN(s) and password(s). Customer will be responsible for all electronic communications, including email, financial, tenant, facility and other data entered through or under Customer's user name(s), PIN(s) and password(s). Centershift shall assume that any electronic communication it receives under Customer's user name(s), PIN(s) and password(s) was sent by Customer.
- 3.7 **Customer Conduct on the Service.** Although Centershift has no obligation to monitor the conduct of customers accessing the Service, Customer acknowledges and agrees that Centershift has the right to monitor the service electronically from time to time and to disclose any information as necessary or appropriate to satisfy any law, regulation or other governmental request, to operate the Service properly, or to protect Centershift or its customers. Centershift will not intentionally monitor or disclose any private electronic-mail message unless required by law. Centershift reserves the right

to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, inappropriate or in violation of the terms and condition of this Agreement.

- 3.8 **No Transfer of Service.** Customer agrees not to copy, sell, resell, rent, sublicense, transfer, assign, lease, loan, redistribute or create a derivative work of any portion of the Service, use of the Service or access to the Service, including offering the Service to third parties on an application service provider or time-sharing basis. Customer agrees not to access the Service by any means other than through the interface that is provided by Centershift for use in accessing the Service.

4. **Proprietary Rights and Confidentiality Obligations.**

- 4.1 **Centershift Proprietary Rights.** The Service is protected by copyright laws and international copyright treaties, patent laws and other intellectual property laws and treaties. Centershift, the Centershift logo, Store, the Store logo, Centershift.net, Centershift.com, and other trade names and logos used in connection with the Service, are trademarks and/or service marks of Centershift, Inc. or one of its affiliates. Customer acknowledges and agrees that, except as otherwise provided herein, this Agreement and use of the Service does not grant any right, title or interest in and to any patents, copyrights, trade secrets, trademarks, service marks, or other property rights or rights of ownership in the Service, or any part thereof in whatever form, and acknowledges that the Service contains proprietary and confidential information of Centershift, which is intellectual property belonging solely to Centershift and is protected by law. All rights not expressly granted by Centershift hereunder are reserved by Centershift.
- 4.2 **Confidential Information.** Centershift and Customer each acknowledge that it may have access to certain confidential information of the other party concerning the other party's business, plans, customers, technologies, products services and other information held in confidence by the other party ("**Confidential Information**"). Confidential Information includes all information, in tangible or intangible form, that is marked or designated as confidential or that, under the circumstances of its disclosure, should be considered Confidential Information, including, without limitation, any information disclosed by Centershift about the technologies, methodologies, equipment, software or processes used by Centershift in connection with the Service, and/or any confidential information disclosed by Customer, including Customer Business Information and customer data, business rules or methodologies, or information obtained by Centershift and/or Customer from third parties for use under this Agreement ("**Customer Provided Content**"). The parties agree that Centershift's computer software program, including algorithms and documentation, whether provided physically or electronically, Customer Business Information and Customer Provided Content are expressly designated as Confidential Information without any such marking requirement.
- 4.3 **Nondisclosure of Confidential Information.** Each party agrees to keep confidential the other party's Confidential Information. Each party agrees that it will use the other party's Confidential Information solely for the purposes of this Agreement and will not use the other party's Confidential Information for its own account or benefit or for the account or benefit of any third party, except as expressly permitted by or required to achieve the purposes of this Agreement, nor to disclose to any third party (except as

required by law or to that party's attorneys, accountants or other advisors as reasonably necessary or as set forth in Section 4.6) any of the other party's Confidential Information and will take reasonable precautions to protect the confidentiality of such information, which precautions shall be at least as stringent as such party takes to protect its own Confidential Information.

- 4.4 **Exceptions.** Neither Party shall have any obligation under Section 4.3 with respect to information which (a) is publicly known by the receiving party at the time of disclosure or becomes publicly known through no fault of the receiving party, (b) is in the receiving party's possession prior to disclosure by the disclosing party, as evidenced by written records, (c) is hereafter received from a third party as a matter of right and without breach of any nondisclosure restrictions, (d) is furnished to any third party by the disclosing party without similar nondisclosure restrictions on such third party, (e) is approved for release in writing by the disclosing party, or (f) is disclosed pursuant to a law or a governmental or judicial order, provided, however that, prior to any such disclosure, the receiving party immediately notifies the disclosing party so that the disclosing party may seek a protective order or take other protective action.
- 4.5 **Ownership of Customer Provided Content.** Customer shall own any and all Customer Provided Content. Centershift shall have no right to collect, access or use Customer Provided Content, except as expressly permitted in this Agreement or as necessary to maintain, operate or provide the Service without Customer's prior written consent. Centershift shall not sell, disclose, transfer, or assign any Customer Provided Content to any third party or use any Customer Provided Content for or on behalf of any third party. Customer shall indemnify Centershift against, and hold Centershift harmless from, any claims, law suits and demands by any third party caused by or based on Centershift's possession, distribution, disclosure or use of the Customer Provided Content in accordance with the terms of this Agreement, or Customer's possession, distribution, disclosure, use or misuse of Customer Provided Content. Centershift may access Customer Provided Content in order to develop statistics about its Customers or about the self-storage industry as a whole. Such statistics will be general in nature and will in no instance be identifiable as to the Customer.
- 4.6 **Due Diligence Disclosures.** Notwithstanding the nondisclosure obligations contained in this Section 4, disclosures of the other party's Confidential Information may be made by a receiving party to prospective investors, lenders, acquirers, underwriters and other third parties, where a legitimate business need exists, but only for such third parties' bona fide due diligence purposes and only if they are also under an obligation of confidentiality at least as protective of the disclosing party and its Confidential Information as the provisions of Section 4.3. The disclosing party shall notify the other party of any such disclosures within three (3) days of such disclosure. Centershift is specifically precluded from disclosing any information other than Customer Business Information and the terms and conditions of this Agreement without Customer's prior written consent.
- 4.7 **Unauthorized Access and Improper Uses.** Customer shall not utilize any portion of the Service or any of the applications, databases, computer systems or other resources that relate to this Agreement to gain unauthorized access to any other computer programs, databases, computer system, Confidential Information or other property of Centershift, any customer of Centershift or any other third party or for any improper purpose including, without limitation, to interfere with or disrupt another computer

system or its use, to alter or delete any data or computer programs, to propagate viruses, Trojan horses, time bombs or other harmful computer code, to engage in any unlawful or immoral act, or to assist or encourage any other person in doing any of the foregoing. In addition, Customer shall not modify, reverse engineer, reverse compile, or disassemble Centershift's computer software or any other proprietary technology provided by Centershift. Customer shall not download and/or save a copy of any of the screens appearing in the Service for any purpose, except as otherwise provided in this Agreement. Customer agrees not to access the Service by any means other than through the interface that is provided by Centershift for use in accessing the Service. A breach of this Section shall give Centershift the right to terminate Customer access to the Service and/or this Agreement immediately, notwithstanding anything to the contrary and without obligation of any kind to Customer, in addition to all remedies available to Centershift in law or in equity.

- 4.8 **User Feedback.** Should Customer or any of its users of the Service respond with information, feedback, questions, comments, suggestions or the like regarding the Service, any such response shall be deemed not to be Customer Provided Content or Confidential Information and Centershift shall be free to reproduce, use, disclose or distribute the response to others without limitation. Customer agrees that Centershift shall be free to use any ideas, concepts or techniques contained in the response for any purpose whatsoever including, but not limited to, developing, enhancing and marketing Service functionality.
- 4.9 **Survival of Proprietary Rights and Confidential Obligations.** The provisions of Section 4 shall survive termination of this Agreement.

5. **Fees and Other Payments.**

- 5.1 **Fees for the Service.** Customer agrees to pay the fees associated with the Service, as outlined in the Summary of Services and Fee Schedule(s) attached as Appendix A. Payment of these fees and other charges, as set forth in Appendix A, entitles Customer to use the Service at the Customer Facility. All payments to Centershift shall be in U.S. Dollars and are due on the first (1<sup>st</sup>) day of each calendar month and shall not be pro-rated, except as described here. If the commencement date of the Service falls after the 20<sup>th</sup> day of a month, the amount due for that month shall be pro-rated using a standard 30-day month. Customer acknowledges that Centershift may terminate access to the Service if payment is not made when due.
- 5.2 **Taxes.** Customer agrees to pay any sales, excise, use and other taxes or government assessments or duties related to this Agreement or to the Service, in addition to all other payments set forth in the Agreement. If Centershift pays any such taxes on behalf of the Customer, Customer agrees to immediately reimburse Centershift for the full amount of the payment of such taxes, in addition to paying the full amount of all payments outlined in the Fee Agreement attached as Appendix A. This provision does not apply to Centershift's obligation to pay federal or state taxes based upon its net income, or to pay any state or local business or franchise tax.
- 5.3 **Late Payments.** Any payments payable by Customer that are more than ten (10) days late shall be subject to a finance charge of 1.5% per month until paid. In addition, the failure of Customer to pay any fees or other amounts within ten (10) days after such fees or other amounts are due shall constitute a material breach of this Agreement,

which shall entitle Centershift, in its sole discretion, and in addition to any other rights and remedies it may have under the law or in equity, to (a) terminate, suspend, restrict or disable Customer's access to the Service, or any portion thereof, until receipt of full payment of all fees and amounts owing, including finance charges, and/or (b) terminate this Agreement. Prior to taking any of the foregoing actions, Centershift will give Customer written notice, via certified mail (return receipt requested) addressed to the Customer's Contact Person, after which Customer shall have ten (10) days from the date such notice was postmarked to cure the default in payment. If Customer does not cure such default within the foregoing time period, Centershift may exercise (a) and/or (b) above, and shall have no obligation to reinstate or otherwise resume any Customer access to the Service. If Customer's access to the Service is reinstated or resumed, Customer must pay a reinstatement fee of an amount equal to the fees for three (3) months for the Service. This payment is in addition to all other fees and payments, including finance charges, due under this Agreement. Customer shall pay Centershift for any and all costs and expenses, including without limitation, attorney's fees and court costs, incurred by Centershift in collecting payments from Customer or otherwise enforcing this Agreement.

## 6. Termination.

### 6.1 Termination by Customer.

- (a) **Customer With Subscription License.** If, prior to the end of the Initial Term or any Renewal Term of the Agreement, Customer terminates this Agreement and/or the Service for any reason, other than Centershift's breach, Customer agrees to pay to Centershift a termination fee equal to all fees, charges and other payments that would have been payable to Centershift under the Agreement for the remainder of the current Term, as if the Agreement had not been terminated. Customer understands and agrees that termination will not excuse Customer from its obligation to make full payment for the full current Term of the Agreement. Any fees, charges or other payments that have accrued or become payable prior to termination are also payable to Centershift, in addition to the foregoing termination fee. This section does not limit any other remedies to which Centershift may be entitled.
- (b) **Customer With Purchase License.** If Customer has a Purchase License, Customer may terminate this Agreement at any time for any reason, without penalty, subject to the provisions of Section 6.3, provided Customer gives Centershift at least thirty (30) days prior written notice.

### 6.2 Termination by Centershift.

- (a) **Termination With Cause.** In addition to Centershift's right to terminate as set forth in Section 3.1, Centershift shall have the right to immediately terminate this Agreement and/or to immediately suspend or terminate Customer's access to, use of, or submission of content for all or part of the Service, without prior notice, if Customer engages in any conduct which Centershift determines violates any material term or condition of this Agreement, including but not limited to Section 4.7, or violates the rights of Centershift or third parties. Such termination shall be subject to the terms of

Section 6.3. Customer agrees that if Centershift terminates this Agreement or the Customer's access to the Service due to any breach or misconduct by Customer in accordance with the foregoing, Centershift shall not be liable to Customer or any third-party for any termination of Customer's access to the Service. In addition, Centershift shall have the right to terminate this Agreement if Customer files a petition in bankruptcy, becomes insolvent or dissolves. Customer agrees to defend, indemnify and hold Centershift harmless from and against any and all claims, losses, liability, costs and expenses (including, but not limited to, attorney's fees) arising from Customer's violation of the terms and conditions of this Agreement, state or federal laws or regulations, or any third party's rights, including but not limited to infringement of any copyright, violation of any proprietary right and invasion of privacy rights. This obligation shall survive the termination of this Agreement and/or access to the Service.

- (b) **Termination Without Cause.** Centershift may terminate this Agreement, for any reason, in accordance with Section 3.1, or upon 120 days prior written notice to Customer if Centershift discontinues its business. In the event of such termination of this Agreement and/or the Service, and provided such termination is not due to any default or misconduct by Customer as set forth above in Section 6.2(a), (i) termination will not excuse Customer from its obligation to make full payment for any fees, charges or other payments that have accrued or become payable prior to the date of termination, (ii) Customer shall only be liable to Centershift for fees, charges or other payments that have accrued or become payable prior to the date of termination, and (iii) Centershift agrees to provide the Service to Customer with access to all Customer Business Information and Customer Provided Content for a period of at least 120 days following such notice of termination, for the purpose of allowing Customer to transition to a new service.

- 6.3 **Termination Obligations.** In the event of any termination or expiration of this Agreement, the following shall apply: (a) Sections 3.8, 4, 5, 6, 7, 8 and 9 shall survive termination and remain in effect; (b) termination or expiration shall not affect or delay any payment under this Agreement which would be payable in the absence of such termination or expiration; (c) Services shall cease upon termination or expiration; (d) any and all Customer Provided Content shall be promptly delivered to Customer in accordance with Customer's reasonable instructions; and (e) any and all software and documentation provided by Centershift and any other proprietary materials or resources owned by Centershift shall be promptly delivered to Centershift in accordance with Centershift's reasonable instructions.

## 7. **Representations and Warranties.**

- 7.1 **Warranties of Both Parties.** Centershift warrants that it will provide the Services in accordance with this Agreement. Each party warrants that it has the right to enter into this Agreement and that this Agreement does not conflict with any other contract to which it is a party.
- 7.2 **Disclaimer of Warranties.** THE SERVICE IS PROVIDED "AS IS," WITHOUT WARRANTIES, REPRESENTATIONS OR PROMISES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CENTERSHIFT AND ITS SUPPLIERS DISCLAIM ANY WARRANTY THAT THE FUNCTIONS CONTAINED IN THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT CUSTOMER'S USE OF THE SERVICE, INCLUDING ANY APPLET, SOFTWARE, CONTENT AND SERVICES ACCESSIBLE THEREIN, IS ENTIRELY AT CUSTOMER'S OWN RISK. CUSTOMER ASSUMES FULL RESPONSIBILITY FOR THE USE OF THE SERVICE TO ACHIEVE CUSTOMER'S INTENDED PURPOSES, FOR THE PROPER INSTALLATION AND USE OF THE SERVICE, AND FOR VERIFYING THE RESULTS OBTAINED FROM THE USE OF THE SERVICE.

- 7.3 **Disclaimer Regarding Interactive Services.** Certain interactive services available through the Service allow Customer to connect with third parties. Centershift cannot control the actions of those parties or the security of information sent to those parties by Customer and must rely on information received from third parties in performing certain operations. Therefore, Centershift is not responsible for errors in the information Centershift receives. Matters relating to credit transactions, such as chargebacks of credit card charges, are the responsibility of Customer's financial institution and/or credit card processor.
8. **Limitation of Liability.** EXCEPT FOR ANY LIABILITY ARISING UNDER SECTION 4 (PROPRIETARY RIGHTS AND CONFIDENTIALITY OBLIGATIONS), NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR REVENUE, OR INTERRUPTION OF BUSINESS IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY OF CENTERSHIFT RELATING TO OR ARISING FROM THIS AGREEMENT AND FOR ANY AND ALL CAUSES OF ACTION SHALL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY CUSTOMER TO CENTERSHIFT UNDER THIS AGREEMENT. CENTERSHIFT IS NOT RESPONSIBLE FOR LOSS OF USE OF ANY WEB SITE, INTERNET ACCESS, HARDWARE OR SOFTWARE, LOSS OF DATA OR PROFITS, COSTS OF RE-CREATING DATA, COSTS OF ANY SUBSTITUTE PERFORMANCE, EQUIPMENT OR PROGRAM, OR CLAIMS BY ANY THIRD PARTY, EVEN IF ADVISED OF THE POSSIBILITY THEREOF. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
9. **Miscellaneous.**
- 9.1 **Entire Agreement and Amendments.** This Agreement and any attachments hereto represent the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous negotiations and agreements, whether written or oral, with respect to such subject matter. No amendment, modification, supplement, or other purported alteration of this Agreement shall be

binding on the parties, unless it is in writing and is signed on behalf of the parties by their own authorized representatives.

- 9.2 **Governing Law, Jurisdiction and Venue.** This Agreement shall be construed, interpreted, and governed by the laws of the State of Utah, excluding its conflict of law rules. Any judicial proceeding brought against any of the parties to this Agreement on any dispute arising out of this Agreement or any matter related hereto must be brought in the courts of the State of Utah, and, by execution and delivery of this Agreement, each of the parties to this Agreement accepts the exclusive jurisdiction of such courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement.
- 9.3 **Injunctive Relief.** The copying or use of the Service, or any part thereof, by Customer in a manner inconsistent with any provision of this Agreement will cause irreparable injury to Centershift, for which Centershift will not have an adequate remedy at law. In such event, Centershift shall be entitled to injunctive relief in court, in addition to all other remedies available at law or in equity.
- 9.4 **Attorneys' Fees.** The prevailing party in any suit brought to enforce a provision of this Agreement shall be entitled to an award of reasonable costs and attorneys' fees.
- 9.5 **Force Majeure.** Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond a party's reasonable control, such as, natural catastrophes, governmental acts or omission, laws or regulations, labor strikes or difficulties, transportation stoppages or slowdowns, or the inability to procure parts or materials. Notwithstanding the foregoing, this force majeure provision shall not apply to Customer's obligation to timely make any payment due to Centershift under the terms of this Agreement.
- 9.6 **Export Controls.** Customer agrees that it will not, without the prior written consent of Centershift, export directly or indirectly, Centershift's computer software or any portion thereof to anyone outside the United States or outside the national jurisdiction in which the Customer Facility is located. If Customer receives Centershift's written consent to export any part of the Service, Customer agrees not to export or transfer, whether directly or indirectly, Centershift's computer software, or any portion thereof, or any system containing the same to anyone outside the United States without first complying with all export controls that may be imposed on the such software by the United States government or any country or organization of nations within whose jurisdiction Customer operates or does business.
- 9.7 **Assignment.** Customer may not assign this Agreement or any of its rights, duties, or obligations under this Agreement, without the prior written consent of Centershift. This Agreement may be assigned or transferred in whole or in part by Centershift. In the event Centershift is acquired by a third-party entity, such third-party entity shall be required, as part of the acquisition, to assume the obligations of this Agreement.
- 9.8 **No Waiver.** The failure of any party to enforce any of the provisions of this Agreement shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

- 9.9 **Severability.** If any provision of this Agreement is found invalid, illegal or unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and enforceable according to its terms.
- 9.10 **Notices.** Any notices required or permitted under the terms of this Agreement shall be given in writing to the appropriate party at the address specified above, or at such other address as the party shall specify in writing. Such notices shall be made by personal delivery, fax, certified or registered mail, return receipt requested, and shall be deemed to be received by the addressee upon personal delivery, or one (1) business day after sending notice by Federal Express or other similar overnight delivery service, or the date of transmission if sent by fax, or three (3) business days after mailing if sent by certified or registered mail, with postage prepaid.
- 9.11 **Relationship of the Parties.** Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between the parties. Except as expressly set forth herein, no party by virtue of this Agreement is authorized as an agent, employee, or legal representative the other party, and the relationship of the parties is, and at all times will continue to be, that of independent contractors.
- 9.12 **Attachments to Agreement.** The following attachments are hereby incorporated by reference into the Agreement:

**Appendix A – Summary of Services and Fee Schedule**  
**Appendix B – System Requirements**

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly-authorized representatives.

**CENTERSHIFT, INC.**

**CUSTOMER**

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix A – Summary of Services and Fee Schedule**

**Agreement Number:**

**Appendix Number: A**

Facility Name:

Facility Address:

**Included Services**

Centershift offers the following services as part of its core rental management functionality:

- Features allowing for the general operational, financial and marketing management of self-storage facilities, and for the reporting of those management activities;
- A web-based support system, known as Centershift Online Helpdesk;
- Manual and automated credit card processing functionality;
- A security gate interface linking the Service to the facility’s gate management software;
- A unique web page by which storage customers may manage their accounts;
- A financial integration/export tool compatible with popular spreadsheet and accounting software;
- A secure extranet reporting environment accessible by third parties designated by customer.

		<b>Due at Signing</b>	<b>Initials</b>
Version	2.2.1		_____
Standard Fee – Subscription License	\$239.00 per month	_____	_____
Term: _____	Beginning: _____		

**Fee Services**

Centershift offers the following Additional Services, at the rates indicated, as an extension of its core rental management functionality. Centershift guarantees to offer the Additional Services at the rates indicated throughout the term of this Agreement. Centershift reserves the right to change its pricing thereafter and/or to offer similar services to customers at rates other than those listed here.

\* Centralized mail charges shall be subject to increase during the term of this Agreement based on increases in the U.S. Postal Service 1<sup>st</sup> class letter rate. Customized letter setup may be subject to an additional fee.

		<b>Due at Signing</b>	<b>Initials</b>
Centralized Mail Processing w/ PDF	\$0.60 per blank stock piece mailed*	invoiced	_____
Telephone Support	\$50.00 per month	invoiced	_____
Call Center Integration	\$50.00 per month	invoiced	_____
Legacy Data Conversion	\$450.00	invoiced	_____

By initialing above, you agree to pay the indicated Standard Fee for the Included Services and Additional Services, for the Initial Term, in accordance with the terms of this Agreement. The fees to be paid for the Included and Additional Services during a Renewal Term shall be negotiated prior to the start of the Renewal Term.

**Total Due at Signing:** \_\_\_\_\_

## Appendix B – System Requirements

Centershift Store has been designed to work optimally in the environment described here. You understand and agree that use of the Service requires a stable operating environment for optimal performance and reliability.

<u>Software</u>	<u>Requirement</u>
Operating System	Windows 95 or higher
Internet Browser	MS Internet Explorer 5.5. Newer versions beyond IE5.5 service pack 2 are not explicitly supported.
Scripting Engine	VB Script 5.5
Word Processor	Microsoft Word 97 or higher
Spreadsheet	Microsoft Excel 97 or higher
Document Reader	Adobe Acrobat 4.0 or higher

### Recommended Additional Software

PC Anywhere  
Anti-virus protection