

## **Service Agreement - Terms and Conditions**

Retire-IT, LLC, a corporation having its principal place of business in Columbus, Ohio and its authorized logistics and processing agents (collectively referred to herein as "Retire-IT") provide electronic Equipment end-of-life management services to businesses and institutions. This Service Agreement for contract services ("Agreement") is entered into between Retire-IT and the enrolled customer, shipper and/or consignee (hereinafter collectively referred to as "Client") (hereinafter both Retire-IT and Client collectively referred to herein as "the Parties"). Client agrees to the TERMS AND CONDITIONS ("Terms") of the Agreement which no agent or employee of the parties may alter. These Terms shall apply to this and all future Requests, unless and until these Terms are altered or amended by Retire-IT's issuance of new Terms which will be found at <http://www.retire-it.com/page/terms/>. The Agreement is effective as of the date of enrollment and/or the date specified a request for service ("Request").

### **Definitions**

"Equipment" shall mean all electrical and electronic equipment, primarily computer equipment, accepted by parties for processing.

"Item" shall mean any serialized piece of Equipment to be included in reports. Item shall include, but not be limited to, computers, servers, monitors, terminals, printers, copiers, personal digital assistants, fax machines, scanners, networking equipment, uninterruptible power supplies, data storage devices, telephone systems, and other Equipment to be tracked as an individual Items for reporting purposes. Items shall also include individual hard disk drives, backup tapes, and other Equipment that may contain sensitive information.

"Peripherals" shall include, but not be limited to, individual items such as keyboards, cables, mice, memory, motherboards, removable floppy disk drives, video adapter/interfaces, modems, network interface cards, and other Equipment that does not require serialized reporting.

"Nonconforming Equipment" shall mean items that are not computer, other office electronic Equipment, or related materials. Retire-IT is not capable of processing hazardous materials that are not particular to electronic Equipment.

"Fair Market Value" ("FMV") of any Equipment shall mean the market price for similar Equipment traded in similar volumes in the used computer marketplace as determined in good faith by Retire-IT.

"Secured Logistics" shall mean the method and system for tracking Items between geographic venues where Items are labeled and tracked with unique barcoded disposal tags.

### **Service Consideration and Obligations**

Retire-IT reserves the right, in its sole discretion, to refuse any Request at any time.

Retire-IT acts as the agent of the Client for the purpose of performing duties in connection with the Agreement: as to all other services, Retire-IT acts as an independent contractor. Unless services are performed by persons or firms engaged pursuant to express written instructions from the Client, Retire-IT shall use reasonable care in its selection of third parties. "Third parties" shall include, but not be limited to, the following: carriers, truckmen, cartmen, forwarders, agents, warehousemen, processors and others which the Equipment is entrusted for transportation, cartage, handling, storage, delivery, and/or processing.

Retire-IT will confirm a Request with the Client with the issuance of a unique tracking number associated with the job, lot, and/or work order ("Manifest") for reference purposes ("Manifest ID"). Retire-IT third party freight agents ("Carriers") shall package and/or ship Equipment for processing, remarketing, and/or recycling by Retire-IT third party processing agents ("Processors"). Processor and Carrier may, or may not, be the same entity. Carriers shall package all items for shipment in a manner that ensures safe transport and handling of the Equipment both on and off the truck. Retire-IT shall not be liable for any loss or damage associated with Equipment packaged by Client. Retire-IT shall not be liable for Equipment shipped by Client.

The Manifest ID will identify Bills of Lading (BOL) information such as origin location, date of receipt, and a physical piece-count confirmation. Retire-IT shall provide Client a unique bar-coded security sticker ("Item ID") for each Item of a Manifest along with corresponding transportation-related documentation. Client shall affix an Item ID on each Item prior to pickup. Client shall document the use of Item IDs and shall destroy any remaining/unused Item IDs. Client shall confirm the BOL with the Carrier at the origin location. Client shall retain signed copies of BOL and Retire-IT transportation-related documents. Client shall notify Retire-IT if there is a piece-count discrepancy, missing or incomplete paperwork (i.e. missing or incomplete Driver Sheet, Driver Sheet Supplemental Detail, etc.). Client shall fax or scan/email copies of BOL and transportation-related documents to Retire-IT within two (2)

business days following a completed pickup. All BOL are NON-NEGOTIABLE and have been prepared by the enrolled Client or by Retire-IT on behalf of the Client and shall be deemed, conclusively, to have been prepared by the Client. Any unauthorized alteration or use of BOL or tendering of shipments to any Carrier other than that designated by Retire-IT, or the use of any BOL not authorized or issued by Retire-IT shall VOID the Retire-IT's obligations to make any payments relating to this shipment and VOID all rate quotes.

Upon delivery and acceptance by Processor, Equipment will be evaluated and tested to determine appropriateness of refurbishing and reselling Equipment. Unless otherwise noted in a written work order, all Client asset identification tags will be removed and destroyed during Equipment processing. Electronic data on electronic storage devices will be destroyed or rendered unrecoverable, either electronically or physically.

In the event that any Equipment received is deemed unsuitable for resale due to physical damage and/or technological obsolescence, Equipment will be disassembled for recycling and such Equipment shall be disposed of in an environmentally sound manner in accordance with all applicable State and Federal regulations.

Retire-IT shall prepare a report for each Manifest which shall include data collected through processing of the Equipment. This report is intended to create a serialized audit trail, affording Client verifiable transfer of liability tracking of every Item received by Retire-IT; provide reasonable detail as to any Item that was disposed of, including: identification of such Item; the date of disposal; and the reason for disposal. The report is to afford Client specific financial tie-in with payment checks sent, closure to the audit trail.

#### **Electronic Data on Equipment and Data Security**

Retire-IT will not be able to return Equipment once it has been picked up. Client shall ensure any electronic data or information ("Data") on the Equipment is backed up and remains with the Client. It is the Client's responsibility to protect any confidential or sensitive data contained on Equipment. Retire-IT will perform data destruction services described in conjunction with the Agreement with commercially reasonable care. No data removal process or destruction process leaves Equipment as free from residual data as a new product. Retire-IT makes no recommendations regarding the Client's security needs or representations regarding the effectiveness of one method of data destruction over another.

#### **Nonconforming Equipment**

Client agrees to only send computer and other office electronic Equipment and related materials to Retire-IT for processing. Retire-IT is not capable of processing hazardous materials that are not particular to electronic Equipment. Equipment shall be considered nonconforming, after initial evaluation of each shipment, if it fails to conform to the characteristics agreed to by Retire-IT in any material respect.

If Equipment is discovered to be nonconforming, Retire-IT may revoke its acceptance of the Equipment within five (5) business days of Retire-IT's discovery of the non-conformity. The revocation of acceptance shall be effective immediately upon receipt by the Client of oral notice followed by written notice of the nonconformity. The Client shall notify Retire-IT within seven business days following receipt of such verbal notice as to any alternative lawful manner of disposition of the Nonconforming Equipment. If the Client fails to so direct Retire-IT, Retire-IT shall prepare for lawful transportation and return the Nonconforming Equipment to the Client at the Client's expense.

Retire-IT retains the right not to service Nonconforming Equipment. However, if Retire-IT is willing and capable of servicing the Equipment, Retire-IT shall notify the Client of the nonconformance as above and supply the Client with the price for servicing the Nonconforming Equipment, if the price is above and beyond the standard price per pound charged in this Agreement. Upon agreement of the price, the Nonconforming Equipment shall become conforming.

If Retire-IT cannot or chooses not to service the Nonconforming Equipment or the Client elects not to have Retire-IT service the Nonconforming Equipment at the price quoted by Retire-IT, the Client shall pay Retire-IT the reasonable cost of handling the Nonconforming Equipment. Reasonable cost shall include, but is not limited to, the cost of transportation, unloading, loading, preparing, storing, and caring for the Nonconforming Equipment.

If the Equipment is discovered to be nonconforming, Retire-IT shall be responsible only for its employees, agents, subcontractors, or invitees negligence with respect to such Nonconforming Equipment.

#### **Rates and Fees**

Retire-IT will charge Clients a fee based on the type of Equipment handled and service required. Any price quote made by Retire-IT to Client is valid for thirty (30) business days unless otherwise specified and agreed to in writing by Retire-IT. Rates are subject to change without notice.

Standard fees shall include processing of Equipment. Standard processing includes destruction of electronic data, removal of corporate marking and corporate asset tags, de-manufacturing of Equipment for recycling or preparation for reuse, and disposition documentation. Standard fees shall include a single-pass data destruction method that overwrites disk data with characters. This overwrite method is able to prevent standard software recovery tools from recovering original data stored. This method is an accepted industry standard for clearing disks of sensitive data, but NOT for sanitizing disks with top secret information. For extremely sensitive data, Retire-IT advises Clients to elect the optional DoD Data Sanitization service. DoD Sanitization is an optional triple-pass data destruction overwrite process performed in accordance with the U.S. Department of Defense 5220.22-M standard. Inoperable drives shall be removed and physically destroyed. Unless agreed to in writing in advance, data destruction service shall be performed, and data destruction fees shall be assessed for any CPU or CPU related device.

Standard pickup fees are inclusive of collection, packaging, shipping, fuel surcharge and other transportation charges. Carriers perform on-site packing and agree to adhere to industry accepted shipping and security requirements. Additional charges may apply for any nonstandard pickup requirements and additional weight. Special handling and storage options are available for an additional charge.

### **Declaring Higher Value To Third Parties**

Retire-IT is NOT a Carrier or Processor. The general rules tariffs ("General Rules"), set forth by third parties performing duties in connection with the Agreement will, in every instance and in all legal proceedings, take precedence over the Retire-IT's Terms stated herein. If not stated within General Rules, Retire-IT's Terms as stated herein shall control. In the case of conflict between the Terms contained herein and those set forth by the individual selected third party's General Rules, the selected third party's General Rules shall control. Third parties to whom the Equipment is entrusted may limit liability for loss or damage. The third party's limit of liability, if the third party does have liability, is declared value ("Declared Value"). Claimants must prove the Equipment's value and measure of damages, and if the third party concludes it was negligent in handling the Equipment and there is liability, it will reimburse the claimant for those damages. However, the amount of payment cannot exceed the amount of declared value. Clients may gain peace of mind with extra protection for Equipment by request additional protection. Retire-IT will request excess valuation coverage only upon specific written instructions from the Client, which must agree to pay any charges therefore. In the absence of written instructions from the Client, and the provision of excess valuation coverage, Equipment is subject to the terms of the third party's limitations of liability. Unless requested to do so in writing and confirmed to Client in writing, Retire-IT is under no obligation to procure insurance on Client's behalf: in all cases, Client shall pay all premiums and costs in connection with procuring requested insurance.

### **Claims**

Retire-IT is not liable for any loss, damage, mis-delivery or non-delivery caused by the act, default or omission of a third party. Retire-IT will file a claim with a third party and/or the third party's insurance provider upon specific written instructions from the Client. The filing of a claim does not relieve the responsible party for payment of charges. Where Retire-IT files damage claim with carrier or agent on behalf of Client and receives recovery funds, Retire-IT has a lien on such recovery amounts and reserves the right to apply recovery amounts to open past due invoices on account. This includes recovery amounts received from carrier for freight charges and/or product damage claim amounts.

### **Payment**

All Clients are subject to credit approval. Retire-IT intends to perform a credit check based on the information provided at the time of enrollment by the Client. The amount of credit, if any, granted to the Client is at the sole discretion of Retire-IT. Until a payment history has been established and/or credit has been granted, all charges are due and payable in advance of services performed. Estimated charges are based on best information available and resources are scheduled accordingly. If piece counts, weight, or work performed result in actual charges that exceed estimated charges, Retire-IT reserves the right to assess supplemental charges. If piece counts, weight, or work performed result in actual charges that are significantly lower than estimate charges, Retire-IT may, at its discretion, elect to refund an overpayment. Overpayments do not accrue interest. An attempt fee will be charged if a Carrier is dispatched, but is not permitted to perform a scheduled pick up. Cancellation may be subject to an additional fee.

Any payment which is past due shall be subject to an additional charge at the rate of 1-1/2% per month of the average outstanding balance due, or the highest rate of interest permitted by applicable law, whichever is less. All funds received by Retire-IT will be applied to the oldest (based on pickup date) invoiced Manifest that is outstanding. When paying by credit card or electronic funds, the Client agrees they will be responsible for all charges payable, including any adjustments, on account of such Client's shipment. These charges and adjustments, if any, will be automatically debited to the Client's credit card or bank account. In the event Retire-IT

retains an attorney or collection agency to collect unpaid charges or for the enforcement of these Terms, all unpaid charges will be subject to a late payment penalty of 33% and Client shall also be liable for all attorneys and collection agency fees incurred, together with related costs and expenses. All shippers, consignors, consignees, freight forwarders or freight brokers are jointly and severally liable for the freight charges relating to this shipment.

The Client shall be liable, jointly and severally, for all charges payable on account of such Client's shipment, including but not limited to transportation, fuel and other applicable accessorial charges, including all adjustments issued by the carrier(s) after the shipment, and all duties, customs assessments, governmental penalties and fines, taxes, and Retire-IT's attorney fees and legal costs allocable to this shipment and/or all disputes related thereto. Unless otherwise agreed, brokers scheduling shipments for clients shall be liable, jointly and severally, for all charges payable on account of such client's shipment. Retire-IT shall have a lien on the shipment for all sums due it relating to this shipment or any other amounts owed by Client. Retire-IT reserves the right to amend or adjust the original quoted amount or re-invoice the Client if the original quoted amount was based upon incorrect information provided at the time of the original quote or if additional services by the carrier were required or otherwise authorized by the Client to perform the pick up, transportation and delivery functions therein. Client is permitted thirty (30) business days from the date of the invoice to dispute any invoiced charges. If Retire-IT does not receive a dispute within the allowable thirty (30) business days, the disputed item will be denied by Retire-IT.

For any given work order, Retire-IT shall pay any rebate due to Client from the resell of Equipment within fourteen (14) days upon receipt of the payment from the Equipment purchaser. If the Client's portion of the funds received by Retire-IT for the resell of Equipment exceeds any outstanding fees due to Retire-IT, and any other charges incurred, Retire-IT reserves the right to deduct such outstanding fees from payments to Client. All funds received by Retire-IT for the resell of Equipment do not accrue interest and will be applied to the oldest (based on pickup date) invoiced Manifest that is outstanding.

### **Warranties and Representations**

Retire-IT warrants and represents to Client that: (i) Retire-IT is a corporate entity duly organized and in good standing as set forth on the first page of this Agreement, and is and will remain in compliance with all applicable laws in the conduct of its business and, specifically, in its rendering of the services under this Agreement; (ii) Retire-IT's organization was not created primarily to enter into this Agreement or to render the services, and its business is not exclusively or principally devoted to the rendering of the services or reliance on any potential fees to be paid by Client under this Agreement; (iii) this Agreement is the binding legal obligation of Retire-IT and is enforceable in accordance with its terms; (iv) Retire-IT has the full and unrestricted right, power and authority to enter into this Agreement, including each work order, and to perform its obligations in accordance with the terms hereof and thereof; (v) all of the services to be performed by Retire-IT hereunder will be performed in a professional, good, workmanlike and commercially reasonable manner with the requisite knowledge and skill to perform the services in compliance with all applicable laws and regulations; (vi) the elimination of information and all software and data on hard drives will be completed; and (vii) Retire-IT and its affiliates are fully knowledgeable with respect to all governmental and administrative laws, rules, regulations and directives applicable in any regard to the resale, donation and/or disposal of computer and electronic Equipment and software.

### **Amendments**

Any waiver, amendment or modification of any provisions of this Agreement shall not be effective unless made in writing and signed by both parties. No failure or delay by either party with respect to exercising any of its rights hereunder shall operate as a waiver thereof.

### **No Waiver**

No failure or delay on the part of either party in the exercise of any right, power or remedy under this agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

### **Severability**

If any of the provisions of this Agreement are declared to be invalid, such provisions shall be severed from this Agreement and the other provisions thereof shall remain in full force and effect

### **Notices**

All notices, reports, and receipts shall be in writing and shall be deemed duly given on (i) the date of personal or certified mail return receipt requested delivery; or (ii) the date of transmission by telecopy or other electronic transmission service, provided a confirmation copy is also sent no later than the next business day by postage paid, first-class mail, addressed as follows:

If to Client:

Billing Contact as identified on a Request

If to Retire-IT:

Retire-IT, LLC  
938 Dennison Avenue, Suite B  
Columbus, OH 43201  
Telephone: (614) 522-2301  
Facsimile: (614) 455-0853

### **Confidentiality**

Both parties agree that they will not disclose, disseminate or make public the details of this agreement, including but not limited to business processes, pricing and any other data related to above named transactions. The provisions contained in this paragraph shall survive termination of the Agreement. Client shall regard as confidential and proprietary (i) all Retire-IT information communicated to it by Retire-IT or to which Client has access in connection with this Agreement (which information shall at all times be the property of Retire-IT), (ii) information developed for Retire-IT by Client, (iii) the nature of, discussions regarding, and terms of this Agreement, and (iv) all third party confidential information which has been provided in confidence to Retire-IT and which is disclosed to Client on a need-to-know basis solely for the benefit of Retire-IT (such information hereinafter collectively referred to as "Information"). In addition, Client shall not, without Retire-IT's prior written consent, at any time (a) use such Information for any purpose other than in connection with this Agreement for the benefit of Retire-IT or (b) disclose any portion of such Information to third parties. Client shall promptly at the termination of this Agreement return to Retire-IT all such Information which is in written or tangible form (including, without limitation, all copies, summaries and notes of the contents thereof), regardless of the party causing the same to be in such form. Client shall disseminate such Information to its employees only on a "need-to-know" basis. Retire-IT shall regard as confidential and proprietary (i) information developed for Retire-IT by Client, (ii) the nature of, discussions regarding, and terms of this Agreement, and (iii) procedures, reports, processes, vendor information, audit reports, and other trade information unique to Client's operation. In addition, Retire-IT shall not, without Client's prior written consent, at any time (a) use such Information for any purpose other than in connection with this Agreement for the benefit of Client or (b) disclose any portion of such Information to third parties. Client and Retire-IT shall cause each of its employees, agents and representatives who has access to such Information to comply with the terms and provisions of this section in the same manner as it is bound by this section, with each party remaining responsible for the actions and disclosures of any such employees, agents or representatives. The provisions of this paragraph shall survive any expiration or termination of this Agreement.

### **Limitation of Liability**

IN NO EVENT SHALL RETIRE-IT'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNTS OF FEES PAID BY CLIENT TO RETIRE-IT UNDER THIS AGREEMENT. IN NO EVENT WILL RETIRE-IT BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, OR DATA, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROVISION OF OR FAILURE TO PROVIDE SERVICES WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF RETIRE-IT HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND.

### **Intellectual Property and Content**

Any and all intellectual property rights ("Intellectual Property") associated with Secured Logistics are the sole property of Retire-IT. Elements of Retire-IT provided documents and Retire-IT web sites (the "Content") are protected by copyright, trademark, trade secret, unfair competition, and other laws and may not be copied or imitated in whole or in part without the express written consent of Retire-IT.

### **Marketing**

Retire-IT reserves the right use and display the logos and or trademarks of a Client in Retire-IT marketing collateral including but not limited to the Web site, press releases, or sales presentations without Client's prior written consent. Client may terminate this right to use the logos and or trademarks at any time.

### **Governing Law and Venue**

This Agreement shall be governed and construed in accordance with the internal substantive laws of the State of Ohio, United States of America, applicable to contracts made and performed entirely in the State of Ohio, without regard to principles of conflicts of laws. In the event that arbitration proceedings are mutually waived or held by a court of competent jurisdiction to be unenforceable, the parties agree that the most appropriate forum for the resolution of any disputes arising under this Agreement, including any work order, are the federal and state courts

located in Columbus, Franklin County, Ohio, USA, having competent jurisdiction over such disputes. Accordingly, to the extent that the parties are not otherwise subject to personal jurisdiction of such federal or state courts, acceptance of the terms and conditions of this Agreement constitutes consent of both parties that this Agreement constitutes minimum contacts with the State of Ohio to satisfy the exercise of such jurisdiction.

### **Arbitration**

In the event of a controversy, claim or dispute arising out of or relating to this Agreement, the representatives of the parties shall meet and confer in good faith negotiations with the object of reaching mutual agreement and settlement. If the parties' representatives are unable to agree, such representatives shall promptly commence discussions with respect to resolving the dispute through non-binding alternative dispute resolution ("ADR") procedures fashioned by the representatives themselves or with the assistance of persons or organizations experienced in ADR procedures such as the International Chamber of Commerce. Any controversy, claim or dispute arising out of or relating to this Agreement, or the breach thereof, that the parties cannot amicably resolve sixty (60) days from notice of such controversy from one party to another, shall be settled by arbitration administered by the International Chamber of Commerce under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be Columbus, Ohio, and the arbitrator shall determine the matters in dispute in accordance with governing law. The parties agree that the award of the arbitrator shall be the sole and exclusive remedy among them regarding claims, counterclaims, issues or accountings presented to the arbitrator. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

### **Headings**

The captions or headings used in this Agreement are for convenience only and are not intended to have any legal effect.

### **Modifications to Terms of Service**

Retire-IT reserves the right to change the Terms at any time and to notify you by posting an updated version of the Terms on the Web site. You are responsible for reviewing the Terms prior to requesting a pickup. Continued request for service after any such changes shall constitute your consent to such changes.

### **Entire Agreement**

This Agreement, including the work orders executed by the parties pursuant hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto. In the event of any conflict between the provisions of this Agreement and any work order, the provision of the work order shall prevail.