







classifications and schedules and/or similar documents that the CARRIER publishes, files or otherwise maintains and such documents shall not apply to the Transportation Services provided by CARRIER hereunder. In addition, any attempt by CARRIER to limit its liability or impose accessorial charges by tariff or other provision of any other document shall be null and void. Additional rates, other than those detailed in the applicable Load Confirmation Sheet(s), for truckload or less than truckload Shipments, or modifications or amendments of the above rates, or additional rates, may be established to meet changing market conditions, Customer requirements, BROKER's requirements, and/or specific shipping schedules as mutually agreed upon, and shall be confirmed in writing (or by fax or email) signed by both Parties. Any such additional, modified, or amended rates, changes in rates shall automatically be incorporated herein by this reference.

- d) **PAYMENT:** Unless otherwise agreed to by the Parties, BROKER agrees to pay CARRIER the agreed rates and charges for completed Transportation Services within thirty (30) days of receipt of CARRIER's invoice, which must be accompanied by a signed bill of lading, clear delivery receipt or proof of delivery, and any other receipt or documentation BROKER requires or deems necessary to secure payment from its Customer and ascertain that the Transportation Service(s) has been provided at the agreed upon charge (collectively, the "Billing Paperwork"), provided CARRIER is not in default under the terms of this Agreement. CARRIER agrees that no penalties or interest or will be assessed to BROKER or Customer for past due amounts. In the event a dispute arises between CARRIER and BROKER related to payment or the accuracy of any rate or other charge, BROKER shall be entitled to withhold such funds in controversy pending a resolution of the dispute. The time limit for filing overcharge and undercharge claims shall be 180 days from the date of the original freight invoice. All overcharge and undercharge claims and duplicate payments shall be handled and processed by the Parties in accordance with 49 C.F.R. Part 378. Any civil action to recover freight charges, overcharges, duplicate charges, or undercharges related to Transportation Services provided by CARRIER hereunder must be commenced within eighteen (18) months from the date of Shipment. CARRIER further agrees that each BROKER has the discretionary right to offset, withhold, and/or deduct from any payments owed by it or any other Participating BROKER to CARRIER hereunder for liability incurred by CARRIER, including those pursuant to Sections 1 and/or 3 of this Agreement, and to tender payments directly to third-party carriers pursuant to Section 1(b) of this Agreement where CARRIER "double brokers" or sub-contracts a load without BROKER's written authorization. The Parties agree that the Participating BROKER which has tendered the freight Shipment to CARRIER is the sole BROKER responsible for payment of CARRIER's charges.
- e) **BOND:** Each Participating BROKER shall maintain a surety bond / trust fund as required by law to maintain its respective status as a duly registered property broker.
- f) BROKER's responsibility is limited to arranging for, but not actually performing, the transportation of freight.
- g) Each Participating BROKER acknowledges that the BROKER identified in the Load Confirmation Sheet, on a Shipment-by-Shipment basis, shall be the sole BROKER which may enforce this Agreement against CARRIER for the performance of CARRIER's responsibilities under this Agreement for a particular Shipment or transaction.

### 3) **CARRIER'S RESPONSIBILITIES:**

- a) **EQUIPMENT:** In accordance with the representations and warranties in Section 1 of this Agreement, CARRIER shall provide the necessary equipment (the "Equipment") and qualified personnel for the performance and completion of the Transportation Services required by BROKER and/or its Customers. CARRIER shall not use any Equipment that has been used to transport hazardous wastes, solid or liquid. CARRIER agrees that all Shipments will be transported and delivered with reasonable dispatch. CARRIER will furnish Equipment for transporting cargo or property which is sanitary, and free of any contamination, suitable for the commodity being transported and which will not cause in whole or in part adulteration of the commodity as defined under applicable Food Safety Laws. CARRIER agrees that all Shipments will be transported and delivered within agreed upon time and date or otherwise agreed in writing.
- b) **BILL OF LADING:** Each Shipment received by CARRIER will be evidenced by a bill of lading or receipt in a form agreed to by the Parties, signed by CARRIER showing the quantity and description of commodities, together with

any pertinent shipping instructions. Such bill of lading or receipt will be evidence of receipt of such commodities by CARRIER in apparent good order and condition unless otherwise noted by CARRIER on the face of such receipt at the time of receipt. However, the absence or loss of any such bill of lading or receipt will not relieve CARRIER of its obligations and responsibilities with respect to any Transportation Services provided hereunder. CARRIER shall become responsible, and therefore liable, for the cargo, freight, or property when it takes/receives possession thereof, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to CARRIER, and which responsibility/liability shall continue until delivery of the Shipment to the consignee and the consignee signs the bill of lading or delivery receipt. With respect to CARRIER, this Agreement shall supersede any terms of the bill of lading (including but not limited to payment and credit terms, released rates or released value) which are in conflict, or inconsistent, with the terms of this Agreement, which incorporates the terms and conditions of the applicable Load Confirmation Sheet. Failure to issue a bill of lading or sign a bill of lading acknowledging receipt of the cargo or freight by CARRIER shall not limit, reduce, relieve, or nullify CARRIER's obligations, liabilities, or responsibilities with respect to any Transportation Services to be provided hereunder. CARRIER shall notify BROKER immediately in writing of any exception made on the bill of lading or delivery receipt.

**c) LOSS & DAMAGE CLAIMS:**

- i) Except as detailed herein, CARRIER shall process each freight loss, damage and delay claim it receives from a Participating BROKER, or any party entitled to recover against CARRIER for the same, pursuant to 49 C.F.R. §370.1 et seq., and any amendments thereto; and
- ii) The Parties hereby agree that such minimum filing requirements of 49 C.F.R. Part 370 may be satisfied using electronic communications; and
- iii) CARRIER shall cooperate with BROKER in the investigation of any claim for cargo loss, damage, delay, or destruction; and
- iv) CARRIER's liability for freight loss or damage from any cause shall be for the full actual value of the lost, damaged, or delayed freight without limitation and not subject to any lesser "released value" under 49 U.S.C. §14706, the "Carmack Amendment. CARRIER's liability for exempt commodities and the processing of such cargo loss, damage, or delay claims shall be determined by DRC Trading Practices, or Blue Book Transportation Guidelines, or NAPTWG Best Practices at the sole and absolute discretion of BROKER;" and
- v) CARRIER's liability for freight loss and damage claims shall include legal fees and costs incurred by BROKER, either in defense or prosecution of the same; and
- vi) Neither Party shall be liable to the other for consequential damages without prior written notification of the risk of loss, the approximate financial amount of such loss, and an agreement to assume such responsibility has been made in writing; and
- vii) Notwithstanding the terms of 49 CFR 370.9, CARRIER shall pay, decline or make a settlement offer in writing on all cargo loss or damage claims within sixty (60) days of receipt of the claim. CARRIER's failure to pay, decline or offer settlement within this period shall be deemed an admission by CARRIER of full liability for the amount claimed, and a material breach of this Agreement; and
- viii) BROKER is hereby authorized to withhold any and all sums due CARRIER to sufficiently cover a potential claim or other charge imposed herein or by its Customer. Such other charges, include, but are not limited to, any and all additional transportation costs incurred by BROKER if CARRIER fails to deliver any Customer's freight in accordance with the terms agreed to by the Parties. CARRIER shall pay to BROKER within the time period provided in this Section 3(c), and/or BROKER shall be entitled to deduct from the amount BROKER owes CARRIER, BROKER's and/or its Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged, or destroyed; and
- ix) CARRIER shall pay to BROKER the full amount claimed by BROKER or the legal claimant for the kind and

quantity of commodities so lost, delayed, damaged, or destroyed. Payments by CARRIER to BROKER shall be paid and received for the account of the legal claimant, and shall be made within sixty (60) days following CARRIER's receipt of the claim statement and supporting documentation; and

- x) Any exclusion from coverage contained in CARRIER's Cargo Insurance Policy shall not limit, reduce, or nullify CARRIER's liability for freight loss, damage, or delay; and
  - xi) CARRIER agrees that food that has been transported or offered for transport under conditions that are not in compliance with the Customer's or BROKER'S instructions, as provided to CARRIER by Customer or BROKER, will be considered "adulterated" within the meaning of the Food Safety Laws, and their implementing regulations. Food considered to be "adulterated" in accordance with the preceding provision shall be considered having incurred direct damage hereunder and shall be subject to the provisions regarding CARRIER's liability for cargo loss, damage, delay, and destruction contained herein. CARRIER understands and agrees that adulterated Shipments may be refused by the consignee or receiver, at destination without diminishing or affecting CARRIER'S liability in the event of a cargo claim for loss, damage, delay, or destruction to such freight; and
  - xii) If BROKER or Customer instructions require a cargo seal, then any seal irregularities or the absence of a seal shall be sufficient to deem the Shipment a total loss. CARRIER agrees that when transporting food for human consumption, late delivery, i.e. delivery after the deadline indicated on the transportation documents, alone shall be sufficient to reject a Shipment and consider the Shipment a total loss; and
  - xiii) In the event of a cargo, freight, or property loss, damage or delay claim as provided in this Section 3(c), CARRIER shall have no right of salvage or disposal and shall not under any circumstance allow a Customer's goods to be sold or made available for sale or otherwise disposed of in any salvage or secondary market without BROKER and BROKER's Customer's written authorization. Failure of Customer to seek salvage, in its sole discretion, shall not minimize CARRIER's liability in accordance with Sections 3(c) and 3(h), or allow the CARRIER or its insurer to reduce its liability for the full value of the loss sustained by BROKER or its Customer. Neither CARRIER nor its insurer shall be entitled to receive the benefit of any shipper's, receiver's, or Customer's insurance; and
  - xiv) CARRIER acknowledges and agrees that CARRIER is deemed to have sole and exclusive care, custody, and control of the Customer's property, and that the provisions of this Section 3(c) shall apply to CARRIER regardless of whether another carrier ultimately handles the freight, as a result of CARRIER's breach of Section 1(b), and causes any loss, damage, or delay.
- d) **INSURANCE:** CARRIER shall have its insurance agent or insurance company furnish a Certificate(s) of Insurance naming Highway App, Inc., 5931 Greenville Ave #5620, Dallas, TX75206 as a "certificate holder," providing thirty (30) days advance written notice of cancellation or termination, and unless otherwise agreed. Certificates of Insurance are to be sent directly by the insurance company or insurance agent to [insuracne@certs.gohighway.com](mailto:insuracne@certs.gohighway.com) or by any means instructed by BROKER or RMIS providing thirty (30) days advance written notice of cancellation or termination, and unless otherwise agreed. CARRIER shall procure and maintain, at its sole cost and expense, the following insurance coverage, subject to the following minimum limits:
- i) Commercial General Liability insurance with a combined single limit of not less than \$1,000,000 (U.S. Dollars) per occurrence and without aggregate limits (or \$5 million if required by the DOT under 49 C.F.R. Part 387 for the transportation of certain hazardous substances). Upon request, such insurance shall include a waiver of subrogation in favor of BROKER. Such insurance policy shall name BROKER as additional insured.
  - ii) Commercial Automobile Liability insurance with a combined single limit of not less than \$1,000,000 (U.S. Dollars) per occurrence and without aggregate limits. Upon request, such insurance shall include a waiver of subrogation in favor of BROKER. Such insurance policy shall name CARRIER as insured with respect to any and all liabilities for personal injury (including death) and property damage arising out of ownership,

maintenance, use or operation, including loading and unloading, of Equipment operated by CARRIER under this Agreement.

- iii) If Carrier provides Transportation Services for hazardous materials under United States Department of Transportation (“DOT”) regulations, public insurance including Commercial Automobile insurance limits required for the commodity transported under 49. C.F.R. § 387.7 and 387.9 (or successor regulations thereto) and statutory required Commercial Auto insurance limits pertaining to the hazard classification of the cargo as defined by DOT, an MCS90 and Broadened Pollution Liability endorsements for limits required by law and full policy limits. Carrier shall, prior to handling transportation and related services pursuant to this Agreement, name Broker, as a certificate holder, as required on the foregoing insurance policies and shall cause its insurance company to issue a certificate to Broker, evidencing the foregoing.
- iv) All Risk Broad Form Motor Truck Cargo Legal Liability insurance in an amount not less than \$100,000.00 (U.S. Dollars) per occurrence. Such insurance policy shall name CARRIER as insured and provide coverage for any loss, damage or delay related to any cargo coming into the possession of CARRIER under this Agreement. The coverage provided under this policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims and without exclusion for unattended vehicles. In the event CARRIER transports temperature-sensitive Shipment(s), CARRIER shall also maintain refrigeration breakdown insurance coverage with the same limits as specified herein. CARRIER further attests that such refrigeration units are maintained under a maintenance service agreement as may be required to obtain coverage for refrigeration breakdown losses under its policy.
- v) Such workers’ compensation insurance coverage as the CARRIER is required to carry under applicable law in an amount not less than \$500,000. Upon request, such insurance shall include a waiver of subrogation in favor of BROKER.
  - (1) Except for higher coverage limits which may be specified above, the referenced insurance policies shall comply with the requirements of the U.S. DOT and Federal Motor Carrier Safety Administration. CARRIER shall furnish to Registry Monitoring Insurance Services, Inc. and/or, upon request, BROKER written certificates obtained from its insurance providers (i) showing that all insurance coverage required under this Section have been procured and are being properly maintained, (ii) specifying applicable expiration dates, (iii) specifying that written notice of cancellation or modification of the policies shall be given to RMIS and/or BROKER at least thirty (30) days prior to such cancellation or modification, and (iv) listing RMIS as the certificate holder in accordance with the above. All policies will act as and respond to any loss covered on a primary basis and without contribution from BROKER. Upon request, CARRIER shall provide BROKER with copies of the applicable insurance policies. Additionally, if CARRIER maintains that it is exempt from workers’ compensation insurance requirements, then upon request by BROKER, CARRIER shall provide BROKER with evidence confirming such exemption. Additionally, BROKER may elect, at its sole discretion, to specifically require, by written notice to CARRIER, that CARRIER cause BROKER, its affiliates, and/or its Customer to be listed as an additional insured or loss payee under one or more of the insurance policies required under this Section. Notwithstanding any insurance requirement contained in this Section, CARRIER acknowledges (i) that such minimum insurance amounts may not be adequate to fully insure CARRIER against any potential Claim, (ii) the insurance required under this Section in no way limits CARRIER’s liability under the provisions of this Agreement, (iii) that CARRIER is solely responsible for carrying the required insurance, and (iv) that BROKER is in no way responsible for any failure on the part of CARRIER to carry any particular level of insurance coverage, even if such coverage is required under this Section.
- e) **ASSIGNMENT OF RIGHTS:** By operation of this Agreement, CARRIER assigns to the applicable Participating BROKER the right to collect CARRIER’s freight charges from the party responsible for payment of the rates and charges due CARRIER for Shipments transported under this Agreement.
- f) **CARRIER’S INSURANCE AND TAXES:** CARRIER shall retain exclusive responsibility, and liability, for payment of

the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, old age pensions, workers' compensation, social security, with respect to persons engaged by CARRIER in the performance of the Transportation Services to be provided under this Agreement. CARRIER shall indemnify, defend, and hold BROKER harmless from any claim or liability imposed or asserted against any BROKER for any such obligations for which CARRIER is liable.

- g) **USE OF BROKER'S TRAILER(S) BY CARRIER.** In the event that CARRIER utilizes a trailer, container, chassis or other equipment owned by or leased to a Participating BROKER or such BROKER's Customer, or otherwise provided to CARRIER by a Participating BROKER or BROKER's Customer (hereinafter the "Trailer(s)"), CARRIER shall be liable for any damage to the Trailer(s), destruction of the Trailer(s), theft from the Trailer(s), theft of any contents of the Trailer(s), and for any claims for bodily injury (including death) or property damage arising from or related to any accident involving the Trailer(s), regardless of whether such damage, injury, destruction, or theft is caused or occurs while any such Trailer is attached to CARRIER's power unit, except to the extent such damage, destruction, or theft is proximately caused by the negligence or willful misconduct of BROKER or BROKER's Customer. In the event that applicable state law does not allow waiver of liability to the extent contained in this provision, the Parties expressly agree that BROKER's and Customer's liability will be waived to the fullest extent allowed by applicable state law. In no event will a Trailer be used for any purpose other than performing Transportation Services hereunder, and in no event will CARRIER allow any third party or any power unit not operating under CARRIER's for-hire motor carrier authority to operate or pull any such Trailer, unless expressly authorized to do so in writing by BROKER, which, must specify the freight Shipment(s) for which such authorization is given. **CARRIER ACKNOWLEDGES AND AGREES THAT NEITHER BROKER NOR BROKER'S CUSTOMER MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TRAILER INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR USE.**
- h) **INDEMNIFICATION.** CARRIER WILL INDEMNIFY, DEFEND AND HOLD HARMLESS BROKER, ITS AFFILIATES AND ITS CUSTOMERS (AS INTENDED THIRD PARTY BENEFICIARIES) FROM ANY AND AGAINST ALL LOSSES (as defined below) ARISING OUT OF OR IN CONNECTION WITH THE TRANSPORTATION SERVICES PROVIDED UNDER THIS CONTRACT, INCLUDING THE LOADING, UNLOADING, HANDLING, TRANSPORTATION, POSSESSION, CUSTODY, USE OR MAINTENANCE OF CARGO OR EQUIPMENT OR PERFORMANCE OF THIS CONTRACT (INCLUDING BREACH HEREOF) BY CARRIER OR ANY CARRIER REPRESENTATIVE. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION BE CONSTRUED TO PROVIDE INDEMNIFICATION TO BROKER, ITS AFFILIATES AND CUSTOMERS TO THE MAXIMUM EXTENT PERMITTED BY LAW. IF THIS PROVISION IS FOUND IN ANY WAY TO BE OVERBROAD, IT IS THE PARTIES INTENT THAT THIS PROVISION BE ENFORCED TO ALLOW INDEMNIFICATION TO THE MAXIMUM EXTENT PERMISSIBLE. "Losses" mean any and all losses, liabilities, obligations, personal injury, bodily injury, property damage, loss or theft of property, damages, penalties, actions, causes of action, claims, suits, demands, costs and expenses of any nature whatsoever, including reasonable attorneys' and paralegals' fees and other costs of defense, investigation and settlement, costs of containment, cleanup and remediation of spills, releases or other environmental contamination and costs of enforcement of indemnity obligations.
- i) **HANDLING, LOADING AND SEALING.** CARRIER will comply with any freight handling instructions provided by BROKER, shipper, consignor, consignee, or Customer including, but not limited to, requirements related to transportation of temperature-controlled Shipments. Without limiting the foregoing, CARRIER shall ensure that any Shipment requiring controlled temperature transit is consistently maintained throughout transit within the required temperatures at all times. For avoidance of doubt, as the temperature is to be continuously maintained, at no time should any trailer refrigeration unit be set to cycle mode. If CARRIER is transporting cargo, freight, or property of a type that a reasonable person would understand to require controlled temperature transportation, but is not provided with instructions regarding such service, CARRIER shall request such instructions prior to receiving the cargo and, if controlled temperature service is declined, shall use reasonable efforts to obtain such declination in writing. If no temperature is stated on the bill of lading or conflicting temperatures are given in a single or multiple documents, CARRIER shall obtain written confirmation of the correct temperature from the shipper and immediately notify and advise BROKER in writing of such temperature for verification.



- i) CARRIER is responsible for the case, pallet and/or product count (as applicable) as evidenced on the Load Confirmation Sheet and each applicable bill of lading. CARRIER shall call BROKER and make appropriate notations prior to signing the bill of lading or leaving the shipping facility in the event CARRIER is not allowed on the shipping dock to witness loading and is unable to secure the product, verify case, pallet and/or product count, or determine specific product/commodity type(s). By signing the bill of lading and/or failing to notate any shortage or damage on the bill of lading (with shipper's written confirmation), CARRIER attests that it received all products listed on the bill of lading in good condition and that the product is properly secured. Upon delivery or attempted delivery, CARRIER shall immediately notify in writing any and all product overage or other undelivered or rejected product to BROKER and must await BROKER's instructions regarding the disposition of such product. Regardless of whether this or any subsequent Load Confirmation Sheet includes any charge item or amount related to the disposition of such product, CARRIER, at its sole cost and expense, shall be responsible for the return, redelivery, destruction, disposal, or donation of such product in accordance with BROKER's or the Customer's instructions. Further, CARRIER, at its sole cost and expense, shall be liable for those additional or replacement transport costs incurred by BROKER or its Customer as a result CARRIER's failure to pickup, transport, and delivery any full or partial bill of lading listed therein.
- ii) CARRIER shall be responsible for the safe loading and securement of the cargo, freight, or property it receives for transportation under this Agreement. If a Shipment is loaded and sealed prior to arrival of CARRIER's personnel, CARRIER shall determine the manner of loading and securing the freight prior to departing the origin facility. CARRIER represents and agrees that each driver it utilizes shall be competent and knowledgeable to manage or oversee the loading, securement, and transportation of the freight it receives under this Agreement.
- iii) When required by BROKER, a Customer, shipper, or the consignor, CARRIER shall secure Shipments with a serialized seal. CARRIER shall ensure that the serialized seal number appears on the bill of lading or other form of manifest or receipt. CARRIER shall be solely responsible for maintaining seal integrity during transportation of the Shipment. Except as required by law enforcement personnel, under no circumstances shall CARRIER, or any of its personnel, break any seal without the authorization of BROKER or other authorized representative of the freight owner. CARRIER shall immediately notify BROKER in writing to report a missing or broken seal.
- iv) In the event that law enforcement personnel require that CARRIER break any seal on any Shipment, CARRIER shall document the same on the bill of lading or other form of manifest or receipt by noting the law enforcement agency, time, location, and officer name and badge number. Upon completion of inspection by law enforcement personnel, CARRIER's personnel shall immediately re-seal the Shipment with a serialized seal and shall indicate the second seal number on the bill of lading or other form of manifest or receipt. Furthermore, CARRIER shall, as soon as reasonably possible after being required to break a seal by law enforcement personnel, communicate with BROKER and, if not BROKER, the bill of lading parties.
- v) Immediately upon request or as promptly as practicable thereafter, CARRIER will provide BROKER and/or the Customer in writing: (i) evidence of the operating temperature of Shipments subject to the Food Safety Laws maintained during the Transportation Services in the manner acceptable to BROKER and/or Customer; (ii) documented written processes for maintaining food safety, including maintenance of temperature control, and cleaning, sanitizing, and inspecting Equipment; (iii) Evidence of transportation traceability, including information regarding: (a) previous cargo hauled in bulk or in the Equipment; and (b) Maintenance and intervening cleaning procedures for docks and Equipment; (iv) appropriate training processes for each person under CARRIER's supervision or control involved in providing Transportation Services; and (v) evidence that Shipments subject to Food Safety Laws have not been adulterated and have been transported under sanitary conditions to protect the Shipments against temperature abuse or excessive fluctuations and any physical, chemical, or microbial contamination.
- j) **BROKER'S RECORDS.** CARRIER hereby waives the right to obtain copies of BROKER's records as provided under

49 C.F.R. Part 371. Notwithstanding the foregoing, to the extent that CARRIER obtains records set forth in 49 C.F.R. § 371.3 by any means whatsoever, CARRIER agrees to refrain from utilizing such records in negotiating for the provision of services with any third party, including BROKER's Customers. CARRIER further agrees and understands that all such records comprise BROKER's confidential information and trade-secrets.

- k) **WAIVER OF CARRIER'S LIEN.** CARRIER is relying on the general credit of BROKER and hereby waives and releases all liens which CARRIER might otherwise have against the interest of any goods in its possession for the payment of freight and accessorial charges. CARRIER shall not withhold any goods transported under this Agreement on account of any dispute as to rates or any alleged failure of BROKER to pay charges incurred under this Agreement.
- l) **OTHER WAIVER.** CARRIER's Rules Circular (if any) and tariff rates or provisions (if any) shall have no legal force or effect as to the subject matter of this Agreement, and the terms of this Agreement shall supersede any such circulars, tariff rates and provisions. Nothing in this Agreement is intended to waive any regulation or procedure governing CARRIER's compliance with registration, insurance and/or safety fitness required of motor carriers under applicable law.

#### 4) **MISCELLANEOUS:**

- 5) **INDEPENDENT CONTRACTOR:** It is understood and agreed that the relationship between each Participating BROKER and CARRIER is that of independent contractor. None of the terms of this Agreement, or any act or omission of either Party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between any Participating BROKER and CARRIER. CARRIER shall provide the sole supervision and shall have exclusive control over the operations of its employees, contractors, subcontractors, agents, as well as all vehicles and equipment used to perform its Transportation Services hereunder. BROKER has no right to discipline or direct the performance of any driver and/or employees, contractors, subcontractors, or agents of CARRIER.
- 6) **NON-EXCLUSIVE AGREEMENT:** CARRIER and each Participating BROKER acknowledge and agree that this Agreement does not obligate one another to an exclusive relationship. Any Party may enter into similar agreements with other carriers, brokers, or freight forwarders.
- 7) **WAIVER OF PROVISIONS:** Failure of CARRIER of any Participating BROKER to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of such Party to thereafter enforce such a term or provision. This Agreement is for specified services pursuant to 49 U.S.C. §14101(b). To the extent that terms and conditions herein are inconsistent with Part (b), Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995 or the "Act"), the Parties expressly waive any or all rights and remedies they may have under the Act.
- 8) **DISPUTES:** In the event of a dispute arising out of this Agreement, including but not limited to Federal or State statutory claims, all matters arising under or relating to this Agreement will be governed by the laws of the Commonwealth of Pennsylvania, notwithstanding conflicts of law rules. The Parties will bring any legal action or proceeding arising out of or relating to this Agreement in federal courts in the Western District of Pennsylvania or in the state courts in Allegheny County, Pennsylvania. CARRIER consents to the exclusive jurisdiction of such courts for the purpose of all legal actions and proceedings arising out of or relating to this Agreement. Each Party waives, to the fullest extent permitted by law, any objection that it may now or later have to the laying of venue as provided herein and any claim that any action or proceeding brought in any such court has been brought in an inconvenient forum. EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE.
- 9) **NO BACK SOLICITATION:** CARRIER and BROKER agree that BROKER, at great expense and effort, has developed a broad Customer base of shippers, receivers and vendors that is essential to the successful operations of the BROKER.

CARRIER and BROKER agree that disclosure of the identity of one or more of BROKER'S said Customers to CARRIER constitutes valuable consideration. During the term of this AGREEMENT and for a period of one (1) year from its termination, CARRIER, and/or any of its related entities (CARRIER and such related entities collectively referred to as "CARRIER Entities"), shall not, directly or indirectly, solicit or do business of transportation or warehousing nature with any of BROKER'S Customers who are serviced by CARRIER under this AGREEMENT unless otherwise agreed to by BROKER in writing. Solicitation prohibited under this AGREEMENT means participation in any conduct, whether direct or indirect, the purpose of which involves transportation, arrangement, and/or handling of property by CARRIER Entities for which CARRIER does, or did in the past, provide such services for that Customer under arrangements first made or procured by BROKER. Solicitation includes conduct initiated or induced by CARRIER Entities or accepted by CARRIER Entities, upon inducement by BROKER'S Customer. If CARRIER should perform Transportation Services, freight arrangement or handling, or warehousing services for compensation for any BROKER Customer without prior documented authorization from BROKER during the applicable time period in violation of this AGREEMENT, CARRIER shall pay to BROKER within ten (10) days of each such violation an amount equal to twenty-five percent (25%) of all revenues invoiced by CARRIER Entities to the solicited Customer, together with any and all costs of collection, including reasonable attorney fees, incurred by BROKER in enforcing this provision, as liquidated damages. CARRIER has ten (10) days after transporting the "first load" for one of BROKER'S Customers in which to challenge, in writing, why the Customer should not be considered BROKER'S Customer. In the event of any challenge, BROKER shall make a reasonable determination in writing as to whether the Customer is that of BROKER or CARRIER. Upon two (2) days' prior written notice, CARRIER shall provide to BROKER, and/or BROKER shall have the right to access electronically and at CARRIER'S place of business, any and all CARRIER Entities' documents, records, communications, and files BROKER deems necessary or relevant to determine compliance or damage amounts due under the terms of this Section.

10) **CONFIDENTIALITY:** In addition to Confidential Information protected by law, CARRIER and each Participating BROKER agree that their respective financial information, and that of their Customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal Customer information, Customer shipping or other logistics requirements shared or learned between the Parties and their Customers, shall be treated as confidential, and shall not be disclosed or used for any reason without prior written consent of the disclosing Party.

(a) In the event of violation of this Confidentiality Section, the Parties agree that any remedy at law, including monetary damages, may be inadequate, and that the Parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating Party from further violation of this Agreement in which case the non-prevailing Party shall be liable for all costs and expenses incurred by the prevailing party, including but not limited to reasonable attorney's fees.

11) **MODIFICATION/BENEFIT OF AGREEMENT:** This Agreement, with incorporates the terms and conditions of the applicable Load Confirmation Sheet, may not be amended or modified except by mutual written agreement, or the procedures set forth above (Sections 2(b) and 2(c)). This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto.

12) **ASSIGNMENT:** This Agreement may not be assigned or transferred in whole or in part by either Party without the prior written consent of the other party. Notwithstanding the foregoing, the following assignments or transfers by BROKER shall be allowed without the CARRIER'S consent: assignments or transfers to an entity (a) that is merged or consolidated with BROKER, (b) that acquired all or substantially all of the BROKER'S assets, or (c) that controls, is controlled by, or is under common control with the BROKER.

13) **NOTICES:** All notices provided or required by this Agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax, or by email with electronic receipt.

a) The Parties shall promptly notify each other of any claim that is asserted against either of them by anyone arising out of the Parties performance of this Agreement.

- b) Notices sent as required hereunder, to the addresses shown in this Agreement shall be deemed sent to the correct address, unless the Parties are notified in writing of any changes in address.
- c) Notices sent as required hereunder, to the addresses shown in this Agreement shall be deemed sent to the correct address, unless the Parties are notified in writing of any changes in address.

- 14) **CONTRACT TERM:** The term of this Agreement shall be one year from the date hereof. Thereafter, it shall automatically renew for successive one (1) year periods, unless terminated upon thirty (30) days prior written notice, with or without cause, by either a Participating BROKER or CARRIER at any time. In the event of termination of this Agreement for any reason, the Participating BROKERS, as applicable, and CARRIER shall be obligated to complete performance of any work in progress in accordance with the terms of this Agreement.
- 15) **BROKER TERMINATION:** A Participating BROKER may terminate this Agreement immediately in writing in any of the following events:
- i) CARRIER loses its operating authority or otherwise becomes disqualified to perform its obligations under this Agreement;
  - ii) CARRIER breaches any covenant, obligation, condition, or requirement imposed upon it by this Agreement, and such breach continues for a period of ten (10) days after written notice thereof from BROKER to CARRIER;
  - iii) CARRIER becomes insolvent or becomes unable to pay its debts in a timely manner;
  - iv) CARRIER fails to comply with the performance metrics or selection criteria, if any, imposed upon it at any time by a Participating BROKER;
  - v) CARRIER fails to procure and maintain any of the insurance coverages required by this Agreement; or
  - vi) CARRIER utilizes the services of any brokers or subcontracts transportation of freight tendered by any BROKER hereunder to any third-party motor carrier or other transportation provider or utilizes a third-party logistics provider to perform its obligations under this Agreement without prior written consent of the Participating BROKER.
- 16) **CARRIER TERMINATION:** CARRIER may terminate this Agreement immediately in writing if a Participating BROKER breaches any covenant, obligation, condition, or requirement imposed upon it by this Agreement and such breach continues for a period of thirty (30) days after written notice thereof from CARRIER.
- 17) **SEVERANCE; SURVIVAL:** In the event any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of this Agreement for any reason.
- 18) **COUNTERPARTS; EXECUTION:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be a duplicate original hereof. Further, CARRIER expressly approves the execution of this Agreement for the benefit of each of the Participating BROKER entities named, and which signatures are attached hereto. Notwithstanding the forgoing, each Shipment tendered to CARRIER under this Agreement shall be deemed to be, and shall in fact be, tendered by the individual Participating BROKER identified in the Load Confirmation Sheet sent to CARRIER or otherwise identified to CARRIER. Upon acceptance by CARRIER, the BROKER named in the Load Confirmation Sheet shall be the sole Participating BROKER making the Shipment tender to CARRIER, to the exclusion of the other listed entities.
- 19) **FAX CONSENT:** The Parties to this Agreement are authorized to fax to each other at the numbers shown herein, (or otherwise modified in writing from time to time) Shipment availabilities, equipment and rate promotions, or any advertisements of new services. The Parties also consent to the use of email (using designated email addresses) to exchange or communicate information that is permitted to be sent and received by fax.

20) **FORCE MAJEURE:** In the event that either Party is prevented from performing any obligation under this Agreement without its fault or negligence, due to war, riots, rebellion, acts of God, acts of lawful authorities, fire, strikes, lockouts or other labor disputes, such failures to perform (except for any payments due hereunder) shall be excused for the duration of such condition. Periods of economic hardship(s), including, but not limited to, recession and depression, shall not constitute Force Majeure events.

21) **ENTIRE AGREEMENT:** Unless otherwise agreed in writing, this Agreement, and all referenced items incorporated herein according to its terms, contains the entire understanding of the Parties and supersedes all verbal or written prior agreements, arrangements, and understandings of the Parties relating to the subject matter stated herein. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

**IN WITNESS WHEREOF, the Parties agree to be bound by the signatures of their duly authorized representatives, and by doing so, represent and warrant that they accept and agree to the terms contained in this BROKER-CARRIER AGREEMENT and have been or are specifically authorized to executethe BROKER-CARRIER AGREEMENT on behalf of the organization they represent.**

**CARRIER**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Authorized Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

**Company Address:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Phone**

\_\_\_\_\_  
**Fax**

**PARTICIPATING BROKERS**

<p>COMPANY NAME: <b>R &amp; R EXPRESS LOGISTICS, INC.</b></p> <p>DOT #            MC # <b>2244935        686931</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>RICHARD FRANCIS</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>GT WORLDWIDE LOGISTICS, LLC.</b></p> <p>DOT #            MC # <b>2240296        619195</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>CLINT PROSPERI</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>RFX, LLC.</b></p> <p>DOT #            MC # <b>3814897        203507</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>NATE LOURIE</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>NEW WLE, LLC.</b> DBA: <b>WESTERN LOGISTICS EXPRESS</b></p> <p>DOT #            MC # <b>2233370        507771</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>LARRY CATLETT</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 2301 MC GEE STRET STE. 850 KANSAS CITY, MO 64108</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>
<p>COMPANY NAME: <b>PARADIGM TRANSPORTATION MANAGEMENT GROUP, LLC.</b></p> <p>DOT #            MC # <b>2820892        938207</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>JOHN GALLARDO</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>PIONEER TRANSFER, LLC.</b></p> <p>DOT #            MC # <b>3816210        212834</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>NATE LOURIE</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>AM TRANSPORTATION SERVICES LLC.</b></p> <p>DOT #            MC # <b>3594176        1218483</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>JOHN KRAKOWSKI</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 8 HOLLIS STREET GROTON, MA 01450</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>ONE STOP FREIGHTWAYS</b></p> <p>DOT #            MC # <b>2520854        873124</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>JASON BEEK</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 390 INTERLOCKEN CRESCENT STE 650 PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>
<p>COMPANY NAME: <b>NEW AMERICAN GROUP, LLC.</b> DBA: <b>AMERICAN GROUP</b></p> <p>DOT #            MC # <b>2244935        686931</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>DANIEL KRIVICKAS</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 605 W KNOX ROAD, STE 206 TEMPE, AZ 85284</p> <p>PHONE            FAX 480-406-6102    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>	<p>COMPANY NAME: <b>R &amp; R EXPRESS INC.</b> DBA <b>HEMPALL TRANSPORTATION</b></p> <p>DOT #            MC # <b>2399893        468429</b> AUTHORIZED SIGNATURE</p> <hr/> <p><u>PRINTED NAME</u> <b>MICHAEL KIVIAT</b></p> <p>TITLE PRESIDENT</p> <p>COMPANY ADDRESS 100 COMMERCE DRIVE PITTSBURGH, PA 15275</p> <p>PHONE            FAX 800 223-8973    877-479-9421</p> <p>EMAIL carrier@shipprexp.com</p>		