



## BROKER - CARRIER AGREEMENT

This Broker-Carrier Agreement (this "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between TransAm Logistics, Inc., a Registered Property Broker, License No. MC-405422 ("BROKER"), and \_\_\_\_\_, a Registered Motor Carrier, Permit/Certificate No. MC-\_\_\_\_\_ ("CARRIER"); collectively, the "Parties". ("Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration (or its predecessors) within the U.S. Department of Transportation.)

### 1. LOAD CONFIRMATION SHEETS; GENERALLY:

A. Each shipment performed hereunder shall be evidenced by a signed Load Confirmation Sheet in the form of that attached hereto as EXHIBIT A. In the event BROKER desires to use CARRIER for any shipment, it will complete, sign and deliver to CARRIER a Load Confirmation Sheet, which sets forth the charge or fee that BROKER is willing to pay CARRIER for such shipment, the pick-up and delivery dates, the places of origin and destination, and any other shipping instructions and requirements applicable to such shipment. In the event a charge or fee schedule is attached to this Agreement as EXHIBIT B, such schedule shall be used to the extent applicable to set the CARRIER's charge or fee for any shipment. In the event any of the foregoing terms other than the charge or fee are missing from, or otherwise not specifically set forth in, the Load Confirmation Sheet delivered by BROKER, the BROKER shall have the right, upon notice to the CARRIER, to reasonably determine and set such terms after the CARRIER's acceptance of such Load Confirmation Sheet but before delivery of the applicable shipment, and in such event, CARRIER shall be bound by such terms without adjustment to the charge or fee. Further, BROKER shall have the right to unilaterally modify any Load Confirmation Sheet to the extent such modification(s) do not have a material adverse effect, as a whole, on the CARRIER's obligations with respect to the shipment covered thereby, and in such event, CARRIER shall be bound by such modification(s) without adjustment to the charge or fee.

B. The CARRIER shall have ten (10) days, or such shorter period indicated by BROKER in the applicable Load Confirmation Sheet, in which to sign and deliver to BROKER, via facsimile or email, such Load Confirmation Sheet indicating its acceptance of the shipment exclusively on the terms stated therein and this Agreement. The CARRIER shall be deemed to have rejected any shipment covered by a Load Confirmation Sheet to the extent it fails to sign and deliver such Load Confirmation Sheet to BROKER within the foregoing period, and any subsequent attempt(s) to accept such shipment shall have no effect unless and until specifically acknowledged and agreed to by BROKER in writing. The CARRIER shall not commence any shipment unless and until it has timely signed and delivered to BROKER the Load Confirmation Sheet relating thereto.

C. No terms or conditions proposed or offered by CARRIER which attempt to add to or otherwise modify the provisions of this Agreement or any Load Confirmation Sheet delivered by BROKER shall be binding upon BROKER unless and until specifically acknowledged and agreed to by BROKER in writing. Further, any schedules, tariffs, rates, charges, classifications and/or rules adopted, maintained, filed or published by CARRIER shall not apply to any shipment under this Agreement unless the same are specifically identified and incorporated herein or in the applicable Load Confirmation Sheet delivered by BROKER. To the fullest extent permitted by 49 USC 14101(b), the Parties expressly waive any and all rights or remedies under 49 U.S.C. Subtitle IV, Part B to the extent such provisions conflict with this Agreement or any Load Confirmation Sheet, including any rights or remedies they may have in connection with claiming a charge or fee which is different from the charge or fee established in this Agreement or in such Load Confirmation Sheet.

2. **CARRIER RESPONSIBILITIES:** In addition to its other covenants and responsibilities contained herein, CARRIER covenants and agrees as follows:

A. CARRIER is, and shall remain at all times throughout the term of this Agreement, a Registered Motor Carrier of Property pursuant to the above Permit/Certificate Number (sometimes referred to herein as CARRIER's "Operating Authority") and duly authorized and qualified to provide transportation of property in intrastate, interstate and foreign commerce under contracts with shippers and receivers and/or brokers of general commodities, including with the BROKER pursuant to this Agreement. CARRIER will immediately notify BROKER in writing if its

Operating Authority is revoked, suspended or rendered inactive for any reason and for any period of time;

B. CARRIER shall make all shipments hereunder under its own Operating Authority and subject to the terms of this Agreement;

C. CARRIER shall ensure that all documents used in connection with any shipment under this Agreement, including all bills of lading, freight bills and receipts, name BROKER as the "Broker", Carrier as the "Carrier", shipper or consignor as the "Shipper", and receiver or consignee as the "Receiver". Without limiting the foregoing, CARRIER agrees that the designation in any such document to the BROKER as the "Carrier", "Shipper" or "Receiver" shall not change BROKER's status as a property broker or CARRIER's status as a motor carrier. In the event of inconsistencies between the terms of this Agreement and any such documents, the terms of this Agreement (and the applicable Load Confirmation Sheet) shall govern, and no term or condition in any such document shall be binding on BROKER unless also set forth in this Agreement and/or such Load Confirmation Sheet. For purposes hereof, the term "shipper" shall be deemed to also refer to "consignor" and the term "receiver" shall be deemed to refer to "consignee", as applicable, and vice versa.

D. CARRIER will not re-broker, sub-broker, sub-contract, assign or interline any shipments hereunder. BROKER may verify with shipper and/or consignee the name and Permit/Certificate Number of the truck that picks up and delivers any shipment accepted by CARRIER hereunder. Without limiting the foregoing, the CARRIER shall ensure that such name and Permit/Certificate Number are set forth in the bill of lading relating to such shipment. If CARRIER breaches this provision, BROKER shall have the right of paying the monies it owes CARRIER directly to the delivering carrier, in lieu of payment to CARRIER, and in such event, CARRIER shall waive and relinquish all rights to such payment. Notwithstanding BROKER's payment to the delivering carrier, CARRIER shall not be released from any liability to BROKER under this Agreement, including but not limited to, liability for consequential, special, indirect or incidental damages.

E. CARRIER is in compliance, and shall maintain compliance during the term of this Agreement (including with respect to each shipment made hereunder), with all applicable federal, state and local laws relating to the provision of its services under this Agreement, including, but not limited to: transportation of hazardous materials, (including the licensing and training of drivers), as defined by applicable federal, state and/or local laws, including in 49 C.F.R. §172.800, §173, and §397, et seq.; security regulations; owner/operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety regulations including, but not limited to, hiring, controlled substances, and hours of service regulations; sanitation, temperature, and contamination requirements for transporting food, perishable, and other products; qualification and licensing and training of drivers; implementation and maintenance of equipment safety regulations; and maintenance and control of the means and method of transportation. Without limiting the foregoing, CARRIER shall maintain in full force during the term of this Agreement any and all federal, state and local licenses, approvals, registrations, permits, consents, operating authorizations, and similar items necessary or appropriate for CARRIER to provide services and perform shipments hereunder, including without limitation, the federal Operating Authority described above, hazardous materials permits (if applicable), a USDOT registration and number and applicable State DOT registrations and numbers.

F. CARRIER shall defend, indemnify and hold harmless BROKER, its shipper customers and their respective owners, directors, managers, officers, agents, employees and representatives (collectively, the "Indemnitees") from and against any and all costs, expenses, claims, actions and damages (including attorneys' fees), including, but not limited to, cargo loss or damage occurring during shipment, delay in shipment, damage to property and personal injury or death, which arise out of or result from: (a) the negligent acts or omissions of CARRIER, CARRIER's contractors, or anyone directly or indirectly employed by them or anyone for

whose acts they may be liable; or (b) the breach of this Agreement by CARRIER; or (c) the violation of any laws by CARRIER, CARRIER's contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable; or (d) the performance of or failure to perform any shipment. Further, CARRIER shall be solely liable for, and shall defend, indemnify and hold harmless the Indemnitees from and against, any and all losses and damages to any property transported under this Agreement which occur while such property is in the possession or under the control of CARRIER or its agents, from the time the property is loaded upon CARRIER's equipment at the place of origin through the time such property is delivered and unloaded to the designated consignee at the place of destination and received without exception. Such liability shall be for the full value of the property, which shall be understood to mean the replacement cost of the lost or damaged property. Without limiting the foregoing provisions of this Paragraph, CARRIER's liability for property loss or damage shall be no less than that of a common carrier as provided for in 49 U.S.C. § 14706, and any exclusions in CARRIER's insurance policies shall not relieve or exonerate CARRIER from such liability for property loss or damage or any other liability of CARRIER under this Agreement. The terms "property" and "cargo" are used interchangeably hereunder.

G. CARRIER shall at all times maintain a "Satisfactory" safety rating issued by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, and will notify BROKER in writing immediately if its safety rating is changed to "Unsatisfactory" or "Conditional".

H. CARRIER authorizes BROKER to invoice CARRIER's freight and other charges and fees relating to any shipment hereunder to shipper, consignee, or other third parties responsible for payment in the manner and amounts determined solely by BROKER. CARRIER acknowledges and agrees that BROKER shall have the sole right and responsibility to collect such charges, fees and payment, and CARRIER will not invoice or otherwise attempt to collect any such charges, fees or payment from the shipper, consignee or other third parties. Accordingly, to the fullest extent permitted by law, CARRIER shall not have the right to claim or assert any liens with respect to any shipment hereunder, or any property subject to such shipment, and CARRIER hereby waives and releases all of its rights in and to such liens.

I. CARRIER has investigated the credit-worthiness of BROKER and agrees to accept payment for its charges and/or fees in the manner and amounts set forth below.

### 3. BROKER RESPONSIBILITIES:

A. BROKERED SHIPMENTS: BROKER shall have the right to solicit and obtain freight transportation business for CARRIER to the mutual benefit of CARRIER and BROKER; provided, however, that so long as CARRIER has not defaulted in any of its obligations or duties hereunder, BROKER shall use commercially reasonable efforts to offer CARRIER at least three (3) loads/shipments annually.

B. INVOICES: After CARRIER has properly delivered the applicable shipment and CARRIER has provided BROKER a complete bill of lading with accompanying freight bill, signed delivery receipt, and signed loading and unloading documentation indicating if any loading and unloading services were provided by CARRIER's driver, CARRIER shall invoice BROKER for its (CARRIER's) charges or fees, as contained in the applicable Load Confirmation Sheet. Such charges and/or fees shall be deemed complete and shall be the sole and exclusive compensation owed from BROKER to CARRIER for the shipment covered thereby.

#### C. PAYMENT:

(i) BROKER agrees to pay CARRIER's proper invoice within 30 days after its receipt of such invoice and all supporting documentation from CARRIER as described above, provided CARRIER is not then in default under any of the terms of this Agreement.

(ii) BROKER may withhold, in whole or in part, any payment to the CARRIER hereunder, to the extent reasonably necessary in BROKER's opinion, to protect it from loss or expense on account of CARRIER's failure to comply (at anytime) with any of the terms of this Agreement. When BROKER has confirmed that the basis for withholding has been remedied by CARRIER, BROKER will promptly pay CARRIER the withheld amount.

(iii) Without limiting the foregoing, should a consignor or consignee notify BROKER of a claim for loss or damage to property transported hereunder, CARRIER agrees that BROKER and consignor/consignee shall have the right to set-off an amount sufficient to cover such claim and to deduct and withhold such amount from any payments due to CARRIER hereunder.

### 4. ADDITIONAL CARRIER RESPONSIBILITIES:

A. SHIPMENTS: CARRIER agrees to properly and efficiently transport and deliver all shipments hereunder. All such shipments shall be delivered pursuant to the terms hereof and those set forth in the applicable

Load Confirmation Sheet. Time is of the essence of all shipments delivered hereunder. CARRIER's drivers shall be responsible for the loading and/or unloading of all such shipments, under the terms and conditions hereinafter set forth. In all instances where CARRIER does not actually load or unload any shipment, CARRIER shall have the duty to determine and ensure that such shipment is properly loaded. CARRIER shall indemnify, defend and hold harmless BROKER and BROKER's customers from and against any and all loss, damage, injury, costs, expenses and/or liabilities of any kind or nature arising from or related to the improper or unsafe loading or unloading of any shipment transported by CARRIER. CARRIER's acceptance of any shipment, or signature on the bill of lading, shall signify that the property (in the number of pieces shown on the bill of lading) have been received by the CARRIER in apparent good condition and order, free from visible defects or damages. When a shipment is partially or wholly refused or rejected by the receiver, or CARRIER is unable to deliver it for any reason, CARRIER shall immediately notify BROKER and the shipper or consignor in order to receive disposition instructions. Until such disposition instructions are received, CARRIER must place the shipment in a public warehouse under BROKER's name or in its terminal or storage facility under reasonable security and provide written notice of such act to BROKER. CARRIER shall have no right to sell, auction or otherwise dispose of any property tendered to it but which is undeliverable.

B. EQUIPMENT: Subject to its covenants and agreements in Paragraph 2 above and as otherwise set forth herein, CARRIER agrees to provide, at its sole cost and expense, the necessary equipment and qualified personnel for completion of all shipments required hereunder for BROKER and/or its customers. Without limiting the foregoing, CARRIER will not supply equipment that has been used to transport hazardous wastes, solid or liquid, regardless of whether they meet the definition in 40 C.F.R. §261.1 et seq. CARRIER agrees that all shipments will be transported and delivered with commercially reasonable dispatch, and as otherwise required in the applicable Load Confirmation Sheet.

C. BILLS OF LADING: CARRIER shall issue a bill of lading in compliance with 49 U.S.C. §80101 et seq., 49 C.F.R. §373.101 (and any amendments thereto), for the property it receives for transportation under this Agreement. Such bill of lading shall be issued immediately upon CARRIER's receipt of such property. If receiver refuses to sign the bill of lading or any other delivery document at time of delivery, then CARRIER shall immediately contact BROKER for direction. Unless otherwise agreed in writing, CARRIER shall become fully responsible/liable for the cargo when it takes/receives possession thereof, and the trailer(s) is/are loaded, 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 and unloading of the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of the bill of lading (including but not limited to payment terms) inconsistent with the terms of this Agreement shall be controlled by the terms of this Agreement and be deemed ineffective. Failure to issue a bill of lading, or sign a bill of lading acknowledging receipt of the cargo, by CARRIER, shall not affect the liability of CARRIER.

#### D. LOSS & DAMAGE CLAIMS; LIMITATION ON DAMAGES:

(i) CARRIER shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations adopted by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, or any applicable state regulatory agency, for processing all loss, injury and damage claims and for processing salvage.

(ii) CARRIER agrees that BROKER shall not be liable to CARRIER for any special, indirect, incidental, or consequential damage whatsoever, whether caused by BROKER's negligence, fault, errors or omissions, breach of contract, breach of warranty or other cause or causes.

E. INSURANCE: CARRIER shall, at all times during the term of this Agreement, at its sole cost and expense, maintain the following insurance coverage written by reputable insurance companies authorized to conduct business in all states where the services hereunder will take place:

(i) Worker's Compensation Insurance with a broad form all states endorsement covering all employees (and independent contractors, as applicable) of CARRIER for statutory limits in accordance with the laws of the states in which the CARRIER will be providing services hereunder.

(ii) Commercial Automobile Liability Insurance (covering any auto including owned, hired and non-owned vehicles and trailers), including contractual liability coverage, covering claims for bodily injury (including death) and property damage, arising out of CARRIER's performance of the services hereunder with a combined single limit of One Million Dollars (\$1,000,000.00) for each occurrence.

(iii) Commercial General Liability Insurance, written on an occurrence basis, including contractual liability coverage, covering claims for bodily injury and property damage (other than to the cargo) that arise out of CARRIER's (including its employees' and, as applicable, independent contractors') performance of the services hereunder

regardless of when such claims are filed, with a combined single limit of One Million Dollars (\$1,000,000.00) per occurrence.

(iv) Cargo Insurance with a minimum limit of One Hundred Thousand Dollars (\$100,000.00) or a higher amount adequate to cover liability under this Agreement for the property in CARRIER's custody or control covering all shipments hereunder on a replacement cost basis (including freight and duties, if applicable), plus lost sales, if any, for all risk of physical loss or damage while being transported under this Agreement. Such cargo insurance will name BROKER's applicable customer as the loss payee.

(v) Any other insurance coverage to the extent required by any applicable federal, state or local laws, including but not limited to, the minimum requirements of the Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

CARRIER hereby waives, and shall cause its applicable insurers to waive, any and all rights, including all rights of subrogation, against the Indemnitees for the recovery of damages to the extent those damages are covered (or required to be covered) by the insurance required herein. Insurance provided by CARRIER covering the Indemnitees shall be primary insurance and any insurance maintained by any Indemnitee shall be excess insurance. Prior to commencing shipments hereunder, and from time-to-time thereafter upon BROKER's request, the CARRIER shall furnish the BROKER with certificates of insurance which indicate that CARRIER maintains the insurance required herein. Such certificates shall be executed by a duly authorized agent of each of the applicable insurers and shall contain the statement that: "The insurance covered by this certificate will not be canceled or altered except after thirty (30) days' written notice has been received by BROKER." If CARRIER fails to maintain the insurance required by this Agreement, BROKER shall have the right, but not the obligation, to purchase said insurance at CARRIER's expense. By requiring the insurance set forth herein, BROKER does not represent or warrant that the coverage and limits will necessarily be adequate to protect CARRIER and such coverages and limits shall not be deemed as a limitation on CARRIER's liability to any Indemnitee in relation to this Agreement.

## 5. MISCELLANEOUS:

A. INDEPENDENT CONTRACTOR: It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor and that no employer/employee, agent/principle, partnership, joint venture or other similar relationship exists, or is intended. BROKER has no control of any kind over CARRIER, including but not limited to routing of freight, and nothing contained herein shall be construed to be inconsistent with this provision.

B. NON-EXCLUSIVE AGREEMENT: CARRIER and BROKER acknowledge and agree that this contract does not bind the respective Parties to exclusive services to each other. Either Party may enter into similar agreements with other parties.

C. WAIVER OF PROVISIONS:

(i) Failure of either Party to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver thereof or of any subsequent failure or breach, and shall not affect or limit the right of either Party to thereafter enforce such term or provision. To be effective, any waiver of any provision or term of this Agreement must be specifically set forth in writing and signed by the Party affected thereby.

(ii) 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), the Parties expressly waive any and all rights and remedies they may have under such Act.

D. DISPUTES: In the event of a dispute arising out of this Agreement, including but not limited to Federal or State statutory claims, the Party's sole recourse (except as provided below) shall be to arbitration. Proceedings shall be conducted under the rules of the (*check one*):

\_\_\_ Transportation Arbitration and Mediation PLLC (TAM), \_\_\_ American Arbitration Association (AAA), \_\_\_ Transportation ADR Council, Inc. (ADR), and/or \_\_\_ DRC (Fruit and Vegetable Dispute Resolution Corp) for fresh produce related claims. In the event the Parties fail to check any of the foregoing spaces, arbitration proceedings hereunder shall be conducted under the rules chosen by BROKER in its sole discretion. The Parties acknowledge that this Agreement evidences a transaction including interstate commerce and, accordingly, that Title 9 of the U.S. Code (United States Arbitration Act) shall govern the interpretation, extent and proceedings pursuant to this Agreement. Any arbitration proceedings brought by CARRIER shall be started within eighteen (18) months from the date of delivery or scheduled date of delivery of the shipment to which it relates, whichever is later; provided, however, that in no event may CARRIER initiate such proceedings if institution of legal or equitable proceedings arising out of the underlying claim, dispute or controversy would be barred by the applicable statute of limitations. The Parties shall be

entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration. The Parties may use all methods of discovery available under the Federal Rules of Civil Procedure and shall be governed thereby. The arbitrator(s) shall have authority to limit discovery so that such discovery methods are not unduly burdensome or onerous, unreasonably cumulative or duplicative, or to the extent the information can be obtained from some other source that is more convenient, less burdensome, or less expensive. Prior to the deposition of any expert witness, the Party proposing to call such a witness shall provide a full and complete report by the expert, together with the expert's calculations and other data by which the expert reached any opinions concerning the subject matter of the arbitration. The report shall be provided no more than ten (10) days prior to the date set forth in the expert witness's deposition. The arbitrator(s) shall endeavor to prevent the disclosure of information and documents protected by the attorney-client privilege. The arbitrator(s) shall endeavor to prevent the introduction of evidence not disclosed as required herein. The decision of the arbitrator(s) shall be binding and final and the award of the arbitrator(s) may be entered as judgment in any court referenced below. The prevailing Party shall be entitled to recovery of costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken, to enforce the award of the arbitrator(s). Arbitration proceedings shall be conducted at the office of the AAA, ADR, DRC or TAM nearest Olathe, Kansas or such other place as mutually agreed upon in writing or directed by the acting arbitration association. Provided, however, either Party may apply to a court for injunctive relief. Venue for any such action shall be exclusively in state or federal courts located in Johnson County, Kansas. Unless preempted or controlled by federal transportation law and regulations, the laws of the State of Kansas shall control the interpretation and enforcement of this Agreement. The arbitration provisions of this Paragraph shall not apply to enforcement of the award of arbitration. Enforcement of any such award shall be exclusively in state or federal courts located in Johnson County, Kansas.

E. NO BACK SOLICITATION: CARRIER acknowledges and agrees that BROKER has, at great expense, developed a broad customer base of shippers, receivers and vendors that is essential to the successful operation of BROKER's business, and that information concerning BROKER's relationships with such shippers, receivers and vendors and their requirements constitutes valuable trade secrets of BROKER. CARRIER further acknowledges and agrees that in the course of performing this Agreement, BROKER must disclose certain of such information to CARRIER, and CARRIER could use such information to unfairly compete against BROKER and/or its affiliates. Accordingly, in material consideration for this Agreement, CARRIER agrees that during the term of this Agreement (except as necessary to perform its obligations hereunder) and for a period of one (1) year following termination of this Agreement, regardless of reason, CARRIER shall not, either directly or indirectly through any other person or entity (including, without limitation, another broker or an affiliated carrier), solicit, request, accept, haul, transport or arrange for the transportation of any shipment, load or freight from or for any shipper, consignor, consignee or other customer of BROKER if: (i) such shipment(s) or route(s) was/were first tendered, brokered or made available to CARRIER by BROKER; (ii) the identity or requirements of such shipper, consignor, consignee or other customer of BROKER was first made known to CARRIER by BROKER; (iii) CARRIER had no business relationship or contract with such shipper, consignor, consignee or other customer of BROKER prior to its business relationship or contract with BROKER; or (iv) CARRIER first hauled a shipment, load or freight for or from such shipper, consignor, consignee or other customer of BROKER in the course of performing this Agreement (or any prior contract between CARRIER and BROKER). The foregoing restrictive covenant shall be binding upon CARRIER and its owners, employees, agents, successors, assigns and affiliates (including, but not limited to, any carrier or business entity under common ownership or control with CARRIER). CARRIER acknowledges and agrees that a breach of the foregoing restriction may cause irreparable harm to BROKER. Accordingly, BROKER may seek injunctive relief to prevent any breach or threatened breach hereof, in addition to any and all other remedies available to BROKER at law and in equity, including, but not limited to, recovery of damages. CARRIER expressly agrees that in the event of a breach of the foregoing restriction, CARRIER shall pay to BROKER liquidated damages in an amount equal to fifteen percent (15%) of the gross revenue invoiced by or payable to CARRIER (or any of its owners, employees, agents, successors, assigns and/or affiliates) for the transportation of any shipment, load or freight in violation of such restriction. Further, in the event of a breach of the foregoing restriction, CARRIER shall be obligated to pay BROKER for its costs and expenses incurred in enforcing the terms hereof and/or attempting to collect the payments required hereunder, including, but not limited to, BROKER'S attorneys' fees, court costs and costs of arbitration.

F. CONFIDENTIALITY:

(i) In addition to Confidential Information protected by law, statutory or otherwise, CARRIER agrees that all of BROKER's financial and

**Broker-Carrier Agreement**

**Initials: \_\_\_\_\_**

proprietary information and that of its customers, including but not limited to, freight and brokerage rates, amounts received for brokerage services, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared with or learned by CARRIER in connection with this Agreement, shall be treated as Confidential, and shall not be disclosed to any third parties or used for any reason other than as necessary to properly carry out its obligation hereunder.

(ii) In the event of violation of this Paragraph, the Parties agree that the remedy at law, including monetary damages, may be inadequate and that BROKER shall be entitled, in addition to any other remedy it may have, to an injunction restraining CARRIER from further violation of this Paragraph in which case CARRIER shall be liable for all costs and expenses incurred by BROKER, including but not limited to, its reasonable attorney's fees and court costs.

G. The limitations of liability for cargo loss and damage as well as other liabilities, arising out of the transportation of shipments, which originate outside the United States of America, may be subject to the laws of the country of origination, and CARRIER shall comply with all such laws to the extent applicable.

H. MODIFICATION OF AGREEMENT: This Agreement may not be amended or modified, except by mutual written agreement of the Parties.

I. NOTICES: Any notice or communication required under this Agreement shall be effective only if it is in writing and either: (i) personally delivered; (ii) sent by certified or registered mail, return receipt requested, postage prepaid; (iii) sent by a nationally recognized overnight delivery service, with delivery confirmed; or (iv) telefaxed, teletyped or emailed, with receipt confirmed. Any such notice shall be delivered to the applicable locations set forth under the respective Party's signature below.

J. CONTRACT TERM: The term of this Agreement shall be one (1) year from the date hereof, unless earlier terminated as provided below, and thereafter, it shall automatically be renewed for additional successive one (1) year periods; provided that, either Party may terminate this Agreement during any such additional one (1) year period upon at least thirty (30) day's prior written notice to the other Party, which termination may be with or

without cause. Either Party may immediately terminate this Agreement during the initial term hereof in the event of any breach of this Agreement by the other Party which is not cured within fifteen (15) days of the breaching Party's receipt of written notice thereof. In the event of termination of this Agreement for any reason, the Parties shall be obligated to complete performance of any work in progress in accordance with the terms of this Agreement.

K. 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 which by their terms or nature survive termination hereof, including without limitation, those in Paragraphs 2.F, 4.D, 5.D, 5.E, 5.F and 5.J, shall survive termination of this Agreement for any reason.

L. COUNTERPARTS: This Agreement may be executed in any number of counterparts each of which shall be deemed to be a duplicate original hereof.

M. ENTIRE AGREEMENT: This Agreement, including the EXHIBITS attached hereto and all Load Confirmation Sheets entered into hereunder pursuant to Paragraph 1 above, 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.

N. INTERPRETATION: The Parties agree that, despite any legal presumption or common law doctrine to the contrary, this Agreement shall not be construed against the drafter as both Parties have participated in the negotiation and preparation of this Agreement.

O. REMEDIES: BROKER's rights and remedies set forth in this Agreement shall be cumulative and not in limitation of any other rights and remedies set forth in this Agreement or available at law or in equity.

**THIS AGREEMENT IS SUBJECT TO A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.**

IN WITNESS WHEREOF, we have signed this Agreement effective as of the day and year first set forth above.

**ACCEPTED AND AGREED:**

**ACCEPTED AND AGREED:**

Carrier Name and Address:

TransAm Logistics Inc.  
15910 South 169 Highway  
Olathe, Ks 66062

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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