

BROKER-CARRIER AGREEMENT

THIS AGREEMENT made and entered into this ___ day of _____ 20____, at Nashville, Tennessee, by and between **TENNESSEE STEEL HAULERS, INC.**, a corporation, with its principal place of business at 2607 Brick Church Pike, Nashville, Tennessee 37207, hereinafter referred to as **BROKER** and _____, with its principal place of business at _____, hereinafter referred to as **CARRIER**.

WITNESSETH

WHEREAS, **BROKER** is in the business of arranging the transportation of freight as a motor carrier property broker, authorized by the Interstate Commerce Commission in Docket No. MC-143621 (Sub 61) to conduct operations, provide service and to arrange transportation as a Motor Carrier Property Broker relating to the movement in interstate commerce of General Commodities (except Household Goods) between points in the United States (except Alaska and Hawaii);

WHEREAS, **CARRIER** is engaged in the business of transporting general commodities, in interstate commerce, as a Motor Contract Carrier under operating authority issued by the Interstate Commerce Commission in Docket No. MC-_____.

WHEREAS, **BROKER** desires to arrange for the transportation of such freight by **CARRIER** as **BROKER** may tender to it;

WHEREAS, **BROKER** desires to utilize the aforesaid services of **CARRIER**, as a licensed Motor Contract Carrier. In order to facilitate the performance of such transportation and/or transportation services, the parties hereto have agreed to the terms and conditions under which all of such transportation and transportation services shall be rendered, made, provided and/or arranged, and such terms and conditions are hereinafter set forth in this Agreement and various Addenda attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises contained herein, **BROKER** and **CARRIER** agree as follows:

(1) **BROKER** hereby agrees to tender and /or cause freight to be tendered to **CARRIER** for the purpose of the Transportation of such freight, in a series of shipments, with a minimum of 3 shipments per year. **BROKER** understands and agrees that **CARRIER** provides specialized contract carrier services designed to meet distinct needs of **BROKER** as defined in 49 CFR 1053.3; these services include, but are not limited to, negotiating and implementing spot rates, providing multiple stops in transit, furnishing qualified drivers experienced in handling shippers' freight, picking up freight on short notice, delivering freight at scheduled times, providing specialized equipment as needed, and closely coordinating all services and communications with **BROKER**'s personnel. **CARRIER** agrees to perform the pick-up, transport, and delivery of all freight tendered or caused to be tendered by **BROKER**, solely and exclusively as a duly authorized and licensed Motor Contract Carrier, and to also arrange for the performance of such other ancillary or related additional services **BROKER** shall require and which **BROKER** may lawfully arrange concerning all such freight tendered. **CARRIER** will also arrange for the like transportation of any and all additional quantities of freight as **BROKER** may tender or cause to be tendered or cause to be tendered to **CARRIER**. In connection therewith, **CARRIER** certifies that it will furnish, without limitation, the following services:

- A. Safe, properly licensed and maintained equipment which meets all applicable government regulatory standards as well as any standards and requirements of **BROKER** regarding safe, clean, hazard free equipment, which is Sufficient in quality and quantity to meet **BROKER**'S transportation needs such as are or may be contemplated by this Agreement;

- B. Provision of drivers and other operating personnel who are fully qualified, trained and experienced, in accordance with all applicable state and federal statutes and requirements, to properly and safely handle the freight tendered hereunder by BROKER;
- C. Pick-up and Delivery of all shipments in strict accord with the schedules of BROKER and its shippers and Customers;
- D. Provision of sufficient traffic managers to coordinate shipments and maintain daily communication with BROKER'S personnel;
- E. CARRIER, shall participate in BROKER'S electronic data interchange systems/programs for tracking, invoicing and any other functions as BROKER may from time to time require.

(2) Carrier's relationship to BROKER is that of an independent contractor, not an agent or employee, and CARRIER shall make all arrangements it deems appropriate to arrange for sufficient, appropriate personnel and motor vehicle Equipment to provide the transportation services contemplated by this Agreement. BROKER is not and will not be responsible for any debts or obligations incurred by CARRIER in the performance of its business. Nothing in this Agreement shall be construed as establishing an employment relationship between the parties. This Agreement shall not be construed as creating any partnership or joint venture between the parties. Neither party shall be liable for any obligation incurred by the other, except as is expressly provided in the Agreement. Neither party is authorized to act for or in any manner to represent itself as agent of the other to conduct or enter into any agreement of or on behalf of the other party, and neither party is authorized to use the formal name or any business name, trademark or service mark used by the other party or by any company with which the other party is affiliated.

(3) CARRIER shall comply with all laws, rules and regulations of any duly constituted governmental authority affecting the performance of the transportation services to be rendered pursuant to this Agreement. CARRIER will be solely responsible for any acts, omissions, and/or violations by its employees, agents and/or any contractors that it engages and will defend and save BROKER harmless from any fine, penalty or liability that may result from such acts, omissions or violations.

(4) Compensation shall be paid by BROKER to CARRIER for all shipments tendered to CARRIER pursuant to this Agreement in the amounts or in accordance with the rate schedules set forth in "Appendix A" attached hereto and made a part hereof; provided, however, that the parties hereto may attach to this Agreement written rate confirmation to set or change the compensation for any specific shipment or shipments.

(5) BROKER shall pay CARRIER the agreed compensation for each shipment tendered pursuant to this Agreement within thirty (30) days from receipt by BROKER of the CARRIER's delivery receipt with attached original Bill of Lading (or a readable copy thereof) signed by the consignee at point of delivery as proof of delivery of the shipment, together with CARRIER's invoice for the agreed upon transportation compensation. Only if no such Bill of Lading was provided at the point of origin will a written and signed delivery receipt alone be acceptable as proof of delivery. BROKER shall perform all billing, invoicing and collection services to or with respect to customers whose property is transported by CARRIER pursuant to this agreement.

(6) CARRIER hereby warrants that it holds Motor Contract Carrier authority issued by the U.S. Department of Transportation and holds appropriate licenses from state regulatory agencies to perform the transportation as contemplated herein and that all transportation performed by it on behalf of BROKER shall be contract carriage and not common carriage; and in the event that CARRIER also holds common carrier authority, that all services rendered by CARRIER shall be as a contract carrier and not as a common carrier.

(7) CARRIER agrees to defend, indemnify and hold harmless BROKER, its officers, directors, employees, agents, representatives, and customers against any and all claims, demands, actions, causes of action, losses, damage and/or liabilities (actual, potential, threatened or pending) and all expenses relating to or arising from such and/or the transportation services rendered hereunder, including, but not limited to court costs, experts' fees and attorney's fees. It is understood and agreed that the forgoing provision is to be applied solely with respect to the allocation of liability

between CARRIER and BROKER, and shall not be deemed to limit or affect any rights or defenses which either or both have or may have against any other person or company.

(8) CARRIER assumes all liability for all delay, loss and/or damage to all shipments transported pursuant to this Agreement to the same extent as if it were an interstate motor common carrier, pursuant to 49 U. S. C. Section 11707, for the full value of freight transported, or in the case of delay, for all foreseeable loss, and as a warehouseman if the goods are held in storage following a rejection and pending disposition. No released value conditions, whether stated in the rates or otherwise, shall apply against BROKER or its customers. CARRIER shall be responsible to BROKER for any loss or damage claims, which BROKER may incur or pay to its customers on account of any transportation services performed by CARRIER, for BROKER.

(9) CARRIER agrees at all times to carry public liability and property damage insurance in amounts not less than one million dollars (\$1,000,000) with a reliable insurance company or companies, approved by BROKER, naming BROKER as an additional insured. CARRIER also agrees at all times to carry cargo insurance in an amount not less than one hundred thousand dollars (\$100,000) with a reliable insurance company, approved by BROKER, naming BROKER as an additional insured. CARRIER agrees at all times to comply with all applicable workers' compensation statutes concerning its employees, and shall indemnify and hold BROKER harmless for all claims and demands that may be made against BROKER. CARRIER will promptly furnish BROKER with Certificates of Insurance or other acceptable evidence of such coverages. CARRIER will immediately notify BROKER of any notice of cancellation of such insurance by the insurance company or companies. CARRIER further agrees that it will require an endorsement to each such policy of insurance, obligating the insurance company to directly furnish and notify BROKER of any cancellation of such policy of insurance, and that Certificates of Insurance furnished pursuant to this paragraph will include such endorsement.

(10) This contract applies to the tender by BROKER to CARRIER both of commodities that are regulated and those that are unregulated pursuant to Federal Law or regulation, and the tender and/or transportation of such commodities in mixed or unmixed loads. This Agreement also applies to the arranging of intrastate transportation where such does not result in a violation of any state or local law or regulation and mixed loads of interstate and/or unregulated and intrastate freight.

(11) Any notice, request, direction, instruction or other communication relating to the transactions contemplated by this Agreement shall be in writing, shall be sent, and shall be deemed to have been given when sent postage prepaid by certified mail, return receipt requested or by premium private courier or delivery service to the addresses recited herein above, or in such other manner or to such other address as shall have been designated, in compliance with this paragraph, by the party in which such notice request, direction, instruction or other communication is to be given.

(12) This Agreement shall extend to and be binding upon the heirs, executors, successors, or assigns of BROKER and CARRIER. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.

(13) This Agreement may be executed in one or more counterparts and each of such counterparts shall, for all purposes, be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

(14) This Agreement shall be governed by and construed in accordance with the Laws of the State of Tennessee. It is expressly agreed that any legal action arising under or pursuant to the Agreement shall be brought and maintained only in courts located in Davidson County, Tennessee.

(15) This Agreement cancels and supplants any and all other written or oral agreements and understandings for transpiration or transportation related services between BROKER and CARRIER. This Agreement shall remain in effect for one (1) year from the date hereof and, if not canceled, shall automatically renew for additional periods of one (1) year. Either party may terminate this Agreement upon thirty- (30) day's written notice by registered mail of its

intention to terminate. Termination may be with or without cause. Termination of this Agreement shall not release either party from any liability to the other arising pursuant to this Agreement, whether or not such was ascertained at the time of termination. Further, either of the parties to this Agreement shall have the right to immediately terminate this Agreement by giving written notice to the other in the event that the other party shall be adjudicated a bankrupt, becomes insolvent, files for voluntary bankruptcy or is subjected to involuntary proceedings, enters into a receivership, makes an assignment for the benefit of creditors or for other reasonable grounds causes the party terminating this Agreement to feel insecure about the non-terminating party's ability to perform its obligations under this Agreement and is unable to give the terminating party adequate written assurances of its ability to perform its obligations hereunder, within ten (10) calendar days after having received such written notice of termination.

(16) This Agreement constitutes the entire agreement and understanding between the parties and supersedes any and all prior agreements and understanding, either oral or written. Amendments or modification to this Agreement shall be in writing and must be signed by a duly authorized representative of each party hereto. In the event that any portion of this Agreement is declared void or unenforceable, then such provision shall be deemed severed from this agreement which shall otherwise remain in full force and effect.

(17) Any headings or numbering of paragraphs or articles of this Agreement are for organizational convenience only, and all terms and conditions of this agreement are intended to take precedence over any such heading or numbering. If any part, term, paragraph or provision of this Agreement is found or declared to be invalid or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect.

(18) The failure of a party to object to or take action with respect to any breach of any term of this Agreement by the other shall not be construed as a waiver of any rights hereunder by the non-objecting party, nor of any claims, past, present or future, for any breach of this Agreement.

(19) CARRIER may obtain certain confidential information as a consequence of performing services for or on behalf of BROKER pursuant to and in connection with this Agreement. Such confidential information may include information relating to BROKER's past, present or future operations or business activities, including but not limited to, the names of BROKER's customers. CARRIER shall hold all such confidential information in confidence and shall not use any such information other than for the benefit of BROKER or in performance of its obligations under this Agreement. CARRIER shall not disclose any such confidential information to any person, natural or otherwise, except as may be required by law or in order to perform its duties and obligations pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

Carrier: _____

MC#: _____

Print Name: _____

Signature: _____

Title: _____

Broker: Tennessee Steel Haulers, Inc.

Print Name: _____

Signature: _____

Title: _____