

## TRANSPORTATION BROKERAGE AGREEMENT

THIS TRANSPORTATION BROKERAGE AGREEMENT, including Appendix A and any subsequent appendices, addenda, exhibits or schedules (together, the "**Agreement**"), is made and entered on

\_\_\_\_\_, 20\_\_\_\_ by and among \_\_\_\_\_  
("CARRIER") and SFS Holdings, LLC d/b/a Specialty Freight & Courier referred to as ("BROKER").

**Whereas**, BROKER is licensed as a property broker by the Federal Motor Carrier Safety Administration ("FMCSA") – SFS Holdings, LLC d/b/a Specialty Freight & Courier (MC-585543-B); and

**Whereas**, CARRIER is registered with the FMCSA as a motor contract carrier (MC#\_\_\_\_\_ and DOT#\_\_\_\_\_) in interstate, intrastate, and/or foreign commerce and is in all respects qualified to transport freight as required by BROKER; and

**Whereas**, BROKER desires to engage CARRIER to perform transportation within the limits of CARRIER's contract operating authorities according to this Agreement's terms and conditions, and CARRIER desires to perform such transportation.

**Now, therefore**, intending to be legally bound, the parties agree as follows.

1. This Agreement's term shall be one year subject to earlier termination by either party giving thirty (30) day's written notice to the other. Absent such notice, it shall automatically renew for successive one-year periods.
2. CARRIER warrants that all equipment and personnel used in providing the services contemplated herein shall meet all requirements of, and be in compliance with all laws and regulations of, the United States Department of Transportation as well as all states and provinces in which these services are to be provided. CARRIER further warrants that it will immediately provide BROKER with notice, in writing, of any change in its safety rating and provide BROKER copies of any FMCSA Notice of Changes or Notice of Claim related to any change in safety rating.
3. There is no minimum volume of freight contemplated by the Agreement. BROKER is not restricted from tendering freight to other carriers; CARRIER is not restricted from performing transportation for third parties.
4. CARRIER shall transport BROKER's shipments without delay and shall immediately notify BROKER of any likelihood of delay or of any incident or circumstance that will prevent or delay delivery to the consignee.
5. CARRIER shall obtain from the consignee a complete, signed delivery receipt for each shipment, and shall notify BROKER immediately of any exception on any document. CARRIER shall send BROKER delivery receipts and bills of lading no later than seven (7) days from the date of delivery.
6. If BROKER requests CARRIER to transport any shipment required to be placarded under the Department of Transportation (DOT) rules as a hazardous material, the additional provisions in Appendix A, including additional insurance requirements, shall apply for each such shipment.
7. Each shipment hereunder shall be evidenced by a Uniform (Straight) Bill of Lading containing terms and conditions no less favorable to the customer or beneficial owner of the cargo than those contained in the form of Uniform Straight Bill of Lading published as of the time of shipment in the National Motor Freight Classification (N.M.F.C.) and naming Carrier as the transporting carrier. CARRIER's drivers shall be instructed to sign their company's name and record the seal number on every Bill of Lading evidencing a shipment under this Agreement. Under no circumstances shall CARRIER prepare a freight document which lists BROKER as "Carrier" or "Shipper." Documents for each of BROKER's shipments shall name BROKER as "broker" and CARRIER as "carrier." If there is a wrongly worded document, the parties will treat it as if it showed BROKER as "broker" and CARRIER as "carrier". If there is a conflict between this Agreement and any transportation document related to any shipment, including but not limited to Bills of Lading and Rate Confirmation Sheets, this Agreement shall govern. CARRIER agrees to indemnify and hold BROKER harmless from and against any direct, indirect and/or consequential loss, damage, fine, liability, judgment,

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cost and expense, including reasonable attorneys' fees, arising from any errors in the bill of lading, including by way of illustration without limitation, the showing of BROKER as CARRIER or SHIPPER.

8. CARRIER shall be wholly responsible for performing the contemplated transportation and for all costs and expenses of such transportation, including as examples, costs and expenses of all CARRIER's transportation equipment, its maintenance, and those persons who operate it. As to BROKER, CARRIER is an independent contractor, and as such is wholly responsible in every way for such persons as CARRIER hires or employs. CARRIER shall at its sole cost and expense, (a) furnish all equipment necessary or required for all performance of its obligations hereunder (the "Equipment"); (b) pay all expenses related, in any way, with the use and operation of the Equipment; (c) maintain the Equipment in good repair, mechanical condition and appearance; and (d) utilize only competent, able and legally licensed and qualified personnel.
9. CARRIER shall defend, indemnify, and hold BROKER harmless from and against all loss, liability, judgment, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to CARRIER's performance hereunder or CARRIER's breach of any of the terms of this Agreement.
10. During this Agreement's term, CARRIER shall procure and maintain, at its sole expense, the following insurance from Insurer(s) whose most recent and current rating by A.M. Best satisfies the minimum A.M. Best rating in the sole discretion of the BROKER. If any of CARRIER's insurance policies expire during the term of this Agreement, each renewal or replacement policy must be provided by an insurance carrier whose A.M. Best rating satisfies the minimum rating requirement of the BROKER. Upon any renewal of this Agreement, CARRIER shall have thirty (30) days from the renewal date to comply with BROKER's specified insurance requirements. Each insurance company providing any of the coverages required by this Agreement must have complied with all applicable regulations of the FMCSA.

If CARRIER has in place FMCSA – approved self-insurance for all or any portion of the commercial automobile liability insurance required herein below, CARRIER, upon BROKER's request, must furnish BROKER with CARRIER's most recent annual and quarterly profit and loss statements and balance sheets prior to the effective date of this Agreement and submit such quarterly financial reports to BROKER during the term of this Agreement as it might request. BROKER shall receive and maintain such reports in confidence solely for purpose of this Agreement. In addition, if CARRIER is not self-insured for the entire amount of the minimum limits specified herein below for each required coverage, then and in such event each insurance carrier providing any portion of the required coverages and limits must comply with the above-specified A.M. Best requirements.

The required coverages and minimum limits are as follows:

- (a) Commercial Automobile Liability Insurance, with a combined single limit of not less than \$1 million (\$US) each occurrence, covering all vehicles however owned, and/or used by CARRIER to transport BROKER's shipments, including coverage for all liabilities for personal injury (including death) and property damage arising out of CARRIER's transportation under this Agreement.
- (b) Subject to Subsection 10(c) of this Agreement, All Risk Broad Form Motor Truck Cargo Legal Liability insurance in the form of a B.M.C. 32 Endorsement for Motor Carrier Policies of Insurance for Cargo Liability under 49 U.S.C. § 13906, in an amount not less than \$1 Million (\$US) per occurrence. Without prejudice to the foregoing, CARRIER represents and warrants that its coverage includes, but is not limited to insurance against Acts of God, mechanical breakdowns, consequential loss, mischief or vandalism, water damage, fire, lightning, explosion, smoke, collision/overturn of vehicle, wind, pilferage, hijacking, breakage, marring, scratching, collision of the load with another object (without collision of the vehicle) and leased and/or non-owned equipment and/or trailers used by CARRIER shall be covered under CARRIER's insurance policy with the same force and effect as if owned and scheduled on CARRIER's policy. Unless approved in advance by BROKER, the coverage provided under the cargo policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage, or reduce coverage amount, relating to a cargo loss, damage or delay claim. CARRIER shall be responsible for any and all deductibles excluded by its insurer. Notwithstanding the foregoing, no deductible shall be in excess of \$5,000.00 (\$US).

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- (c) CARRIER shall provide directly a minimum of the first One Hundred Thousand Dollars (\$100,000.00) (\$US) of the All Risk Broad Form Motor Cargo Legal Liability insurance referred to in Subsection 10(b). In the event the CARRIER does not provide proof of the insurance coverage referred to in subparagraph (b) above in the amount of \$1 million (\$US), BROKER shall be entitled to obtain coverage solely for the protection of BROKER from BROKER's underwriter under BROKER's contingent cargo program up to an amount of nine hundred thousand dollars (\$900,000.00) (\$US) per shipment, which excess, non-contributory coverage shall apply only after the cargo liability insurance coverage maintained directly by CARRIER has paid its pull policy limits for any single occurrence and shall apply only to claims made against BROKER. As applicable, CARRIER hereby authorizes BROKER to deduct from the freight charges to be paid CARRIER under this Agreement the amount of the approximate expense in maintaining the excess, non-contributory cargo loss, damage or delay insurance coverage:

In the event that a cargo loss, damage, or delay claim, or any portion thereof, is excluded from coverage under BROKER's contingent cargo program for any reason, CARRIER shall assume complete sole liability and responsibility for all such uninsured loss and shall indemnify, defend and hold BROKER harmless for any loss, damage or delay claim asserted against BROKER. CARRIER recognizes and agrees that BROKER is not selling or soliciting insurance, and the contingent cargo coverage provided through BROKER is subject to all of the terms, conditions and exclusions of the actual policy issued by the insurance underwriter.

- (d) BROKER, its affiliates and subsidiaries and customers and/or beneficial owners of any property coming into the possession of CARRIER under this Agreement shall be named as an additional insured or, in BROKER's sole discretion, a loss payee or a certificate holder, in the insurance provided and maintained directly by CARRIER under this Agreement. CARRIER shall furnish to BROKER, prior to accepting any shipment for transportation under this Agreement, a written certificate obtained from the insurance carriers showing that such insurance has been procured, is being properly maintained, the expiration date, and specifying that written notice of cancellation or modification of the policy shall be given to BROKER at least thirty (30) days prior to such cancellation or modification. CARRIER will also provide to BROKER a complete copy of the applicable policies if so requested by BROKER.
- (e) The contingent cargo insurance referred to in Section 10(c) of this Agreement is solely for the benefit of BROKER, its affiliates and subsidiaries.

11. In the event of loss, damage or delay in delivery, CARRIER shall be liable for damage arising there from in accordance with the provisions of this section. The loss, damage or injury shall be measured as the lesser of the actual replacement cost or the cost of repair, subject to a maximum of \$1 million (\$US) per shipment, less the reasonable salvage value of the damaged commodities. In addition, CARRIER shall indemnify BROKER for all indirect, special or consequential damages, or other special economic losses, including attorney fees that might be recovered against BROKER on any customer's claim. CARRIER shall promptly pay BROKER all claim amounts due hereunder and further authorizes BROKER to deduct all such amounts from any amounts owed to CARRIER by BROKER.

- (a) In addition, for any claim arising from any reckless, dishonest, or illegal acts of CARRIER's employee or agent, or claim arising from CARRIER furnishing contaminated equipment, CARRIER shall be solely liable and responsible for such claim.
- (b) CARRIER shall not accept any shipment with a declared or actual value of greater than \$1 Million Dollars (\$US) unless and until CARRIER has informed BROKER of the value of the shipment and has received authorization from BROKER to accept the shipment and complies with any instructions received from BROKER with respect to that shipment.
- (c) For any freight claim, CARRIER shall pay BROKER within thirty (30) days of CARRIER having been notified of the amount of the claim and furnished documentation substantiating the claim.

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12. CARRIER shall not withhold delivery of any freight due to any dispute with BROKER regarding freight charges or otherwise. CARRIER waives and releases all liens which it might otherwise have to any freight in its possession.
13. BROKER and CARRIER agree that the rates and charges for CARRIER's services hereunder shall be only those on the Rate Confirmation Sheets, accepted, signed and submitted to BROKER by CARRIER prior to each shipment. BROKER will pay CARRIER the agreed amount within thirty (30) days of BROKER's receipt of the documents specified on the Rate Confirmation Sheets and any other documents necessary to enable BROKER to ascertain transportation has been properly provided. CARRIER agrees BROKER, at its option, may offset against any payments owed to CARRIER amounts CARRIER owes BROKER under this Agreement. CARRIER agrees that BROKER has the exclusive right to handle all billing of freight charges to the customer for the transportation services provided herein, and, as such, CARRIER agrees to refrain and shall refrain from all collection efforts against the shipper, receiver, consignor, consignee, the freight or the customer.
14. CARRIER shall transport all freight tendered by BROKER only on Equipment operated under CARRIER's authority. CARRIER shall not in any way sub-contract, broker, or arrange for the freight to be transported by a third party without BROKER's prior written consent.
15. It is expressly understood and agreed that CARRIER is an independent contractor for the services provided pursuant to this Agreement, and that CARRIER agrees to defend, indemnify and hold BROKER harmless for any claims, suits, or actions, including reasonable attorney's fees in protecting BROKER's interests, brought by employees, any union, the public, or state, provincial or federal agencies arising out of the operations of CARRIER under this Agreement. CARRIER hereby assumes full control and responsibility for all hours scheduled and worked, wages, salaries, workers' compensation and unemployment insurance, state and federal taxes, fringe benefits, and all other costs relating to its operations pursuant to this Agreement.
16. This Agreement is the entire agreement between the parties, superseding all earlier and all tariffs, rates, classifications and schedules published, filed or otherwise maintained by CARRIER. It cannot be altered or amended except in a writing signed by all parties and cannot be assigned or transferred in whole or in part. The benefits of this Agreement shall not inure to nor be available to any third party.
17. If any provision of this Agreement is deemed unenforceable by any court of competent jurisdiction, such provision shall be severed and the Agreement's remaining provisions shall continue in full force and effect.
18. CARRIER and BROKER expressly waive all rights and remedies allowed under 49 U.S.C. § 14101, to the extent they conflict with this Agreement. BROKER's failure to insist upon CARRIER's performance under this Agreement or to exercise any right or privilege shall not be a waiver of any of BROKER's rights or privileges.
19. This Agreement in all respects shall be governed by, construed and enforced in accordance with the internal laws of the State of Florida, without regard to its conflict of law rules.
20. Each of the parties hereto irrevocably and unconditionally submits itself to the exclusive jurisdiction and venue of the state and federal courts serving Jacksonville, Florida, and any appellate court thereof, in any suit, action or proceeding arising out of or relating to this Agreement and further irrevocably and unconditionally waives any claim or defense that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Each party further agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions in any manner provided by law.
21. Notices shall be sent by certified mail, return receipt requested, or by nationally recognized overnight courier with receipt required, to each party executing this Agreement at the address shown below, or to such other addresses as shall have been designated in a written notice pursuant to this section.
22. CARRIER acknowledges and agrees that it will not drop a trailer other than at the designated business facilities of consignee or at a location designated by BROKER. CARRIER further agrees that, in the event

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any off loss of or damage to the cargo or trailer occurs as a result of its breach of this provision, then the CARRIER will indemnify BROKER and the Customer for any such loss or damage, including reasonable attorneys' fees.

23. Any signature delivered by a party by facsimile transmission shall be deemed to be an original signature hereto.
24. CARRIER acknowledges that each entity appearing on the signature page to this Agreement is a separate and distinct corporate entity. This Agreement is only applicable to and enforceable by or against the CARRIER and the BROKER party (or parties) performing under this Agreement.
25. **Electronic and Fax Communications; Computer Viruses.** During the term of this Agreement, the parties anticipate that they will exchange materials and information in electronic form (collectively "Electronic Materials"), either through the other party's websites, e-mail or other electronic means (collectively "Electronic Connections") and via fax. By providing their fax numbers and signing this Agreement herein below, each party consents to receiving communications via fax regarding all aspects of their relationships. BROKER and its affiliates take reasonable steps to protect Electronic Materials resident on its network, stored in its electronic media, or available on its website, and take reasonable steps to prevent harm arising from Electronic Connections. Due to the nature of Electronic Communications and the Internet, BROKER and its affiliates do not provide, and expressly disclaim, any warranty (i) that Electronic Materials received by the CARRIER will be free from computer viruses or (ii) that Electronic Connections with the CARRIER will be free from harmful effects. It is the CARRIER's responsibility (i) to take reasonable steps to protect Electronic Materials resident on its network, stored in its electronic media, or available on its websites, (ii) to take reasonable steps to prevent harm arising from Electronic Connections, and (iii) to perform any anti-virus, scanning, data backup, security, and other precautions reasonably necessary to safeguard against computer viruses, worms, and other intrusive or damaging code (collectively "Computer Viruses") and other treats posed by Electronic Materials and Electronic Connections. Under no circumstances will BROKER or its affiliates be responsible for, and CARRIER hereby expressly waives and releases BROKER and its affiliates from, any liability for any loss or damage caused by Computer Viruses, the CARRIER's receipt of Electronic Materials from BROKER or its affiliates or Electronic Connections between BROKER and its affiliates and the CARRIER.
26. Non-Solicitation. During the term of this Agreement, and for a period of one (1) year thereafter, CARRIER covenants and agrees that it will not, on its behalf or as an owner, partner, director, officer, employee or agent of any person or entity, directly or indirectly:
  - (a) contact or enter into any business arrangement with any individual or entity that was a customer, vendor or sales representative of BROKER that CARRIER had contact with prior to the date of termination of this Agreement or perform the same type of services as sold by BROKER to such individuals or entities;
  - (b) encourage any individual or entity that was a customer, vendor or sales representative of BROKER that CARRIER had contact with prior to the date of termination of this Agreement to cease doing business with BROKER;
  - (c) encourage any BROKER directors, managers, officers, employees, owner operators or independent contractors to leave employment with BROKER;
  - (d) solicit for employment, employ or engage in any business activity that is the same as, or similar to, the business of BROKER with any director, manager, officer or employee of BROKER without BROKER's prior written consent.

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**In Witness Whereof**, the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives effective as of the date first above written.

**"BROKER"**

**SFS HOLDINGS, LLC d/b/a Specialty Freight & Courier**

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

Authorized Agent or Attorney-in-Fact

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

Address: 3728 Philips Hwy., Suite #218, Jacksonville, FL 32207

**"CARRIER"**

List individual's name as company when applicable.

CARRIER COMPANY: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

FID#: \_\_\_\_\_

USDOT#: \_\_\_\_\_

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## APPENDIX A

### EXTRA REQUIREMENTS FOR HAZARDOUS MATERIALS SHIPMENTS

For any shipment arranged by BROKER to be transported by CARRIER involving transportation of hazardous materials or waste requiring vehicle placarding under 49 CFR Part 172, or any amendment, revision or other applicable regulation, the parties agree the following provision shall apply, in addition to provisions in the Transportation Brokerage Agreement, to which this Appendix is attached:

1. CARRIER also represents and warrants it holds all Federal and/or state permits and registrations necessary to transport the hazardous materials or waste, and CARRIER shall provide BROKER copies of all appropriate documents upon BROKER's request.
2. CARRIER also represents and warrants all CARRIER's drivers transporting hazardous materials or waster (a) are properly trained and qualified under all applicable Federal and State laws, including, as example. 49 CFR § 172.700 and 177.800, and (b) have the proper endorsements on their Commercial Driver's License to transport such shipments.
3. CARRIER shall comply with all Federal, State and local laws regarding the transportation of hazardous materials or waste, including as example, 49 CFR Parts 172 and 397.
4. If CARRIER is requested to transport hazardous materials or waste for which CARRIER must maintain \$5 million (\$US) liability coverage under 49 CFR § 387.9, CARRIER shall procure and maintain, at its sole expense, public liability and property damage insurance for a reputable and financially responsible insurance company authorized to do business in all states in which the goods will move and whose most current rating by A.M. Best is a B+ or better insuring CARRIER for at least \$5 million (\$US) per occurrence. Such insurance shall name CARRIER and BROKER as insureds for any and all liabilities for personal injuries (including death) and property damage, including environmental damage due to the release or discharge of a hazardous substance, arising out of or in any way related to CARRIER's transportation.
5. By signing below CARRIER specifically acknowledges that this Appendix A is a part of the Transportation Brokerage Agreement to which it is attached and is fully enforceable against CARRIER according to its terms.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

#### "CARRIER"

List individual's name as company when applicable.

CARRIER COMPANY: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

FID#: \_\_\_\_\_

USDOT#: \_\_\_\_\_