

## **BROKER/CARRIER AGREEMENT**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, 20\_\_\_\_, by and between S&R Logistics, L.L.C. ("Broker") and \_\_\_\_\_ ("Carrier").

### **Recitals**

A. Broker is an authorized transportation broker that controls the transportation of freight under its contractual arrangements with various consignors and consignees (the "Customer");

B. Carrier is authorized to operate as a for-hire motor carrier in Florida intrastate commerce and is qualified, competent and available to provide for the transportation services required by Broker and the Customer.

### **Agreement**

1. **TERM.** The Term of this Agreement shall be for one (1) year and shall automatically renew for successive one (1) year periods; provided, however, that this Agreement may be terminated at any time by giving thirty (30) days prior written notice.

2. **CARRIER'S OPERATING AUTHORITY AND COMPLIANCE WITH LAW.** Carrier represents and warrants that it is duly and legally qualified to provide, as a contract carrier, the transportation services contemplated herein. Carrier further represents and warrants that it does not have a conditional or unsatisfactory safety rating issued from the U.S. Department of Transportation or any state governmental authority, and further agrees to comply with all federal, state and local laws regarding the provision of the transportation services contemplated under this Agreement.

3. **HOLD HARMLESS AND WAIVER FOR INDEPENDENT CONTRACTOR.** Carrier represents and agrees to the following:

- a) Carrier acknowledges and agrees that there is no employment relationship between such contractor (or any individual within the Carrier's control, employ, contract or direction) and Broker.
- b) Carrier acknowledges that Carrier (and any individuals within Carrier's control, employ, contract or direction) shall NOT be considered an employee of Broker or otherwise entitled to any rights or benefits, including workers' compensation coverage, as an employee of Broker. Carrier also agrees that Carrier (or any individual within Carrier's control, employ, contract or direction) shall be solely responsible for any taxes due upon any compensation paid by Broker to such parties pursuant to the Broker/Carrier Agreement.
- c) Carrier represents and warrants that, under the laws of the State of Florida, Carrier is exempt from the workers' compensation laws under Fla. Stat. Chapter 440 under the following exemption [**INITIAL APPROPRIATE BOX**]:

Carrier has filed a Notice of Exemption with the Florida Division of Worker's Compensation as a corporate Office, partner, sole proprietor or member of a limited liability company. **[CARRIER MUST SUBMIT TO A BROKER A COMPLETED NOTICE OF ELECTION TO BE EXEMPT (DWC 250) IF CLAIMING AN EXEMPTION UNDER THIS PROVISION]**

Carrier is exempt under Florida's workers' compensation laws and statutes as an independent contractor not engaged in the construction industry and having an ownership or lease interest in the vehicle being operated. Carrier agrees and acknowledges that it meets the definition of an independent contractor as contained in Fla. Statute 440.02 (d)

- d) Carrier agrees to defend, indemnify and hold harmless Broker, its agents, employees, owners and officers from and against any and all liabilities, costs, losses, damages, and expenses (including attorney fees) or any nature that may be incurred by Broker as a result of any claim by Carrier or any individual within Carrier's control, employ, contract or direction alleging an employment relationship with Broker for any purpose, including workers' compensation coverage.

4. **PERFORMANCE OF SERVICES.** Carrier's services under this Agreement are specifically designed to meet the distinct needs of Broker under the specified rates and conditions set forth herein. Carrier shall transport all shipments provided under this Agreement without delay, and all occurrences which would be probable or certain to cause delay shall be immediately communicated to Broker by Carrier. This Agreement does not grant Carrier an exclusive right to perform the transportation related services for Broker or its Customer.

5. **LOAD GUARANTEE.** There is no guarantee that a Carrier will be kept in a certain area or put on a steady run. All dispatches are to be run as they are dispatched unless otherwise approved by the dispatcher on duty at the time.

6. **RECEIPTS AND BILLS OF LADING.** Each shipment hereunder shall be evidenced by a Bill of Lading or other shipping manifest approved by Broker or the Customer naming Carrier as the transporting carrier. Upon delivery of each shipment made hereunder, Carrier shall obtain a receipt showing the kind and quantity of product delivered to the consignee of such shipment at the destination specified by Broker or the Customer, and Carrier shall cause such receipt to be signed by the consignee. Any terms, conditions and provisions of the bill of lading, manifest or other form of receipt or contract shall be subject and subordinate to the terms, conditions and provisions of this Agreement. Carrier shall notify Broker immediately of any exception made on the bill of lading or delivery receipt.

7. **CARRIER'S OPERATIONS.** Carrier shall, at its sole cost and expense: (a) furnish all equipment necessary or required for the 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 personnel. Carrier shall have full control of such personnel; shall perform the services hereunder as an independent contractor; and shall assume complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the transportation performed hereunder.

8. **MOTOR VEHICLE REPORTS REQUIREMENTS.** All drivers for Carriers must comply and maintain a current driving record within the following standard:

- a) No more than **one (1)** chargeable accident in the most recent **three (3)** year period.
- b) No more than **three (3)** moving violations in the most recent **three (3)** year period.
- c) No more than **five (5)** violation points in the most recent **twelve (12)** months.
- d) No driver will be considered with any of the following violations:
  - (i) Driving while intoxicated
  - (ii) Driving under the influence of drugs
  - (iii) Negligent homicide arising out of the use of motor vehicles (gross negligence).
  - (iv) Operating during a period of suspension or revocation.
  - (v) Using a motor vehicle in the commission of a felony.
  - (vi) Aggravated assault with a motor vehicle.
  - (vii) Operating a motor vehicle without owner's authority (fraud, theft).
  - (viii) Permitting an unlicensed person to drive.
  - (ix) Reckless driving.
  - (x) Speed contest.
  - (xi) Hit and run driving.

9. **GIFT POLICY.** Please be advised that it is the policy of S & R Logistics that employees should not accept gifts of any kind, including flowers, candy, alcoholic beverages and monies. Any employee who accepts a gift from any Carrier shall be subject to immediate disciplinary action and/or termination. In order to maintain this policy, no Carrier should offer any gift to any S & R Logistics employee. The offering of any gift will result in termination of that Carrier's contract.

10. **INDEMNITY.** Carrier shall defend, indemnify, and hold Broker and the Customer harmless from and against all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the performance or breach of this Agreement by Carrier, its employees or independent contractors working for Carrier (collectively, the "Claims"), including, but not limited to, Claims for or related to personal injury (including death), property damage and Carrier's possession, use, maintenance, custody or operation of the Equipment; provided, however, that Carrier's indemnification and

hold harmless obligations under this paragraph will not apply to any portion of such claim attributable to the sole negligence of Broker or the Customer.

11. **INSURANCE.** Carrier shall procure and maintain, at its sole cost and expense, the following insurance coverages:

- (a) Public liability and property damage insurance with a reputable and financially responsible insurance company insuring Carrier in an amount not less than \$1,000,000.00 (U.S. Dollars) per occurrence.
- (b) 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 and Broker as insureds and provide coverage to Broker, the Customer or the owner and/or consignee for any loss, damage or delay related to any property coming into the possession of Carrier under this Agreement. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims.
- (c) Workers' Compensation and Employers Liability Insurance in the minimum amounts as required by Florida law.
- (d) Carrier shall furnish to Broker written certificates obtained from the insurance Carrier 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 policies shall be given to Broker at least thirty (30) days prior to such cancellation or modification. Upon request, Carrier shall provide Broker with copies of the applicable insurance policies.

12. **FREIGHT LOSS, DAMAGE OR DELAY.** Carrier shall have the sole and exclusive care, custody and control of the Customer's property from the time it is delivered to Carrier for transportation until delivery to the consignee accompanied by the appropriate receipts as specified in Paragraph 4. Carrier assumes the liability of a common carrier (i.e. Carmack Amendment liability) for loss, delay, damage to or destruction of any and all of Customer's goods or property while under Carrier's care, custody or control. Carrier shall pay to Broker, or allow Broker to deduct from the amount Broker owes Carrier, Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged or destroyed. Carrier shall be liable to Broker for all economic loss, including consequential damages, that are incurred by Broker or the Customer for any freight loss, damage or delay claim. Payments by Carrier to Broker or its customer, pursuant to the provisions of this section, shall be made within thirty (30) days following receipt by Carrier of Broker's or Customer's invoice and supporting documentation for the claim.

13. **WAIVER OF CARRIER'S LIEN.** Carrier shall not withhold any goods of the Customer on account of any dispute as to rates or any alleged failure of Broker to pay charges incurred under this Agreement. Carrier is relying upon the general credit of Broker and hereby waives and releases all liens which Carrier might otherwise have to any goods of Broker or its Customer in the possession or control of Carrier.

14. **PAYMENTS.** Carrier will charge and Broker will pay for transportation services performed under this Agreement the rates and charges as shown on separate Rate Confirmation Sheets to be signed and agreed to by Carrier and Broker before each shipment made under this Agreement. Carrier represents and warrants that there are no other applicable rates or charges except those established in this Agreement or in any Rate Confirmation Sheet signed by Broker. Payment by Broker will be made within thirty (30) days of receipt by Broker of Carrier's freight bill, bill of lading, clear delivery receipt, and any other necessary billing documents enabling Broker to ascertain that service has been provided at the agreed upon charge. In the event service is provided and it is subsequently discovered that there was no applicable rate in the existing Schedule of Rates or supplements, the parties agree that the rate paid by Broker and collected by Carrier shall be the agreed upon contract rate. 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 from all collection efforts against the shipper, receiver, consignor, consignee or the Customer. Carrier further agrees that Broker has the discretionary right to offset any payments owed to Carrier hereunder for liability incurred by Carrier pursuant to Section 8 of this Agreement.

15. **CONFIDENTIALITY AND NON-SOLICITATION.** Neither party may disclose the terms of this Agreement to a third party without the written consent of the other party except (1) as required by law or regulation; (2) disclosure is made to its parent, subsidiary or affiliate company; or (3) to facilitate rating or auditing of transportation charges by an authorized agent and such agent agrees to keep the terms of the Agreement confidential. Carrier will not solicit traffic from any shipper, consignor, consignee or customer of Broker where (1) the availability of such traffic first became known to Carrier as a result of Broker's efforts, or (2) the traffic of the shipper, consignor, consignee or Customer of Broker was first tendered to Carrier by Broker. If Carrier breaches this Agreement and directly or indirectly solicits traffic from customers of Broker and obtains traffic from such customer during the term of this Agreement or for twelve (12) months thereafter, Carrier shall be obligated to pay Broker, for a period of fifteen (15) months thereafter, commission in the amount of thirty-five percent (35%) of the transportation revenue resulting from traffic transported for the Customer, and Carrier shall provide Broker with all documentation requested by Broker to verify such transportation revenue.

16. **SUB-CONTRACT PROHIBITION.** Carrier specifically agrees that all freight tendered to it by Broker shall be transported on equipment operated only under the authority of Carrier, and that Carrier shall not in any manner sub-contract, Broker, or in any other form arrange for the freight to be transported by a third party without the prior written consent of Broker.

17. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT.** This Agreement may not be assigned or transferred in whole or in part, and supersedes all other agreements and all tariffs, rates, classifications and schedules published, filed or otherwise maintained by Carrier. This Agreement shall be binding upon and inure to the benefit of the parties hereto.

18. **SEVERABILITY.** In the event that the operation of any portion of this Agreement results in a violation of any law, the parties agree that such portion shall be severable and that the remaining provisions of this Agreement shall continue in full force and effect.

19. **WAIVER.** Failure of Broker to insist upon Carrier's performance under this Agreement or to exercise any right or privilege shall not be a waiver of any Broker's rights or privileges herein.

20. **DISPUTE RESOLUTION.** This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the State of Florida and in the event of any disagreement or dispute, the laws of this state shall apply and suit must be brought in this state.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the date first above written.

**"BROKER"**  
S & R LOGISTICS, L.L.C.

**"CARRIER"**

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

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

Address:

Address:

202 E. Stuart Ave.  
Lake Wales, Fl 33853

Phone (863) 676-9431  
Fax (863) 676-5137

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

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

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

SS# or FID No.: \_\_\_\_\_

FDOT No: \_\_\_\_\_