



## CARRIER/BROKER AGREEMENT

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, 200\_\_\_\_, by and between Sunrise Logistics, Inc. (“SUNRISE LOGISTICS”) and \_\_\_\_\_ (“CARRIER”), collectively, the “PARTIES”.

### I.

#### RECITALS

A. **WHEREAS** SUNRISE LOGISTICS is licensed as a Property Broker by the Federal Motor Carrier Safety Administration (FMCSA), or by appropriate State agencies, and as a licensed broker, arranges for freight transportation.

B. **WHEREAS** CARRIER is authorized to operate in inter-provincial, interstate and/or intrastate commerce and is qualified, competent and available to provide for the transportation services required by SUNRISE LOGISTICS.

NOW THEREFORE, intending to be legally bound, SUNRISE LOGISTICS and CARRIER agree as follows:

### II.

#### 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 either PARTY may terminate this Agreement 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 an unsatisfactory safety rating issued from the Federal Motor Carrier Safety Administration (“FMCSA”) of the U.S. Department of Transportation (“DOT”), and further agrees to comply with all federal, state and local laws regarding the provision of the transportation services contemplated under this Agreement. In the event that CARRIER receives an unsatisfactory safety rating, CARRIER shall immediately notify SUNRISE LOGISTICS of such fact.

3. **PERFORMANCE OF SERVICES.** CARRIER's services under this Agreement are designed to meet the needs of SUNRISE LOGISTICS 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 SUNRISE LOGISTICS by CARRIER. This Agreement does not grant CARRIER an exclusive right to perform the transportation related services for SUNRISE LOGISTICS or its Customer.

4. **RECEIPTS AND BILLS OF LADING.** Each shipment hereunder shall be evidenced by a Uniform (Standard) Bill of Lading 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 SUNRISE LOGISTICS 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 SUNRISE LOGISTICS immediately of any exception made on the bill of lading or delivery receipt.

5. **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.

6. **RATES & PAYMENTS.** CARRIER agrees that the terms and conditions of this Agreement apply to all shipments handled by CARRIER for SUNRISE LOGISTICS and that the terms of this Agreement control the relationship between the parties. Any provisions of the CARRIER's tariff that are inconsistent with the terms of this Agreement, or which address matters not addressed herein are inapplicable. Unless otherwise stated in a separate Rate Confirmation Agreement, CARRIER will charge and SUNRISE LOGISTICS will pay the rates and charges set forth in Appendix A, for transportation services performed under this Agreement. The Rate Confirmation Agreement shall be in the form specified in Appendix B. The Rate Confirmation Agreement shall be signed and agreed to by SUNRISE LOGISTICS and CARRIER before each shipment to which such Rate Confirmation Agreement applies. 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 SUNRISE LOGISTICS. Appendix A can be supplemented or revised by written agreement signed by both parties, or, prior to transportation, by facsimile by SUNRISE LOGISTICS to CARRIER if not objected to by CARRIER, in writing, within twenty-four (24) hours from the date and time faxed. In the event service is provided and it is subsequently discovered that there was no applicable or understood rate in Appendix A or in a separate rate confirmation sheet, the parties agree that the rate paid by SUNRISE LOGISTICS and collected by CARRIER shall be the agreed upon contract rate of the parties for the services provided, unless such rate is objected to by CARRIER within 10 days of the invoice date. Payment by SUNRISE LOGISTICS will be made within thirty (30) days of receipt by SUNRISE LOGISTICS of CARRIER's freight bill, bill of lading, clear delivery receipt, and any other necessary billing documents enabling SUNRISE LOGISTICS to ascertain that service has been provided at the agreed upon charge. CARRIER agrees that SUNRISE LOGISTICS has the exclusive right to handle all billing of freight charges to the Customer or 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 SUNRISE LOGISTICS has the discretionary right to offset any payments owed to CARRIER hereunder for liability incurred by CARRIER.

7. **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 SUNRISE LOGISTICS to pay charges incurred under this Agreement. CARRIER is relying upon the general credit of SUNRISE LOGISTICS and hereby waives and releases all liens which CARRIER might otherwise have to any goods of Shipper or its Customer in the possession or control of CARRIER.

8. **FREIGHT LOSS, DAMAGE OR DELAY.** Unless otherwise set forth in Appendix A, 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 agrees that the provisions of 49 C.F.R. Part 370 shall govern the processing of claims for loss, damage, injury, or delay to property and the processing of salvage. CARRIER shall pay to SUNRISE LOGISTICS, or allow SUNRISE LOGISTICS to deduct from the amount SUNRISE LOGISTICS owes CARRIER, Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged or destroyed. Payments by CARRIER to SUNRISE LOGISTICS or its customer, pursuant to the provisions of this section, shall be made within thirty (30) days following receipt by CARRIER of SUNRISE LOGISTICS's or Customer's undisputed claim and supporting documentation. Exclusions from coverage contained in CARRIER's Cargo Insurance as required herein shall not affect CARRIER's liability for freight loss, damage, or delay.

9. **INSURANCE.** Unless otherwise set forth in Appendix A, CARRIER shall procure and maintain, at its sole cost and expense, the following insurance coverages:

- (a) Public liability and property damage insurance (“AL”) 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, or such larger amount as required by applicable law.
- (b) Commercial General Liability (“CGL”) Insurance covering the transportation of shipments and other operations under this Agreement in an amount not less than \$1,000,000.00 (U.S. Dollars) per occurrence. Such insurance shall also cover CARRIER’s contractual liability under this Agreement.
- (c) All Risk Broad Form Motor Truck Cargo Legal Liability (“Cargo”) insurance in an amount not less than \$100,000.00 (U.S. Dollars) per occurrence. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims.
- (d) Statutory Workers’ Compensation Insurance coverage in such amounts and in such form as required by applicable state law.
- (e) CARRIER shall furnish to SUNRISE LOGISTICS 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 SUNRISE LOGISTICS at least thirty (30) days prior to such cancellation or modification. In addition, SUNRISE LOGISTICS and Customer shall be named as additional insureds on CARRIER’s CGL and AL policies, and as loss payees on the Cargo policy as evidenced by an endorsement on the certificates of insurance. Upon request, CARRIER shall provide SUNRISE LOGISTICS or Customer with copies of the applicable insurance policies.

10. **INDEMNITY.** CARRIER shall defend, indemnify, and hold SUNRISE LOGISTICS 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 negligence or willful misconduct of SUNRISE LOGISTICS or the Customer. CARRIER’s liability for cargo loss or damage under this provision is limited to the liability and amounts set forth in Paragraph 8.

11. **CONFIDENTIALITY AND NON-SOLICITATION.** Unless otherwise set forth in Appendix A, 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 accept traffic from any shipper, consignor, consignee or customer of SUNRISE LOGISTICS where (1) the availability of such traffic first became known to CARRIER as a result of SUNRISE LOGISTICS's efforts, or (2) the traffic of the shipper, consignor, consignee or Customer of SUNRISE LOGISTICS was first tendered to CARRIER by SUNRISE LOGISTICS. If CARRIER breaches this Agreement and moves shipments obtained directly from customers of SUNRISE LOGISTICS during the term of this Agreement or for twelve (12) months thereafter without utilizing the services of SUNRISE LOGISTICS, CARRIER shall be obligated to pay SUNRISE LOGISTICS, 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 SUNRISE LOGISTICS with all documentation requested by SUNRISE LOGISTICS to verify such transportation revenue. CARRIER shall not utilize SUNRISE LOGISTICS’ or the Customer’s name or identity in any advertising or promotional communications without written confirmation of SUNRISE LOGISTICS consent.

12. **SUB-CONTRACT PROHIBITION.** CARRIER specifically agrees that all freight tendered to it by SUNRISE LOGISTICS 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 SUNRISE LOGISTICS.

13. **USE OF BROKER'S TRAILER(S) BY CARRIER.** In the event that CARRIER utilizes a trailer owned by or leased to SUNRISE LOGISTICS, or any Customer of SUNRISE LOGISTICS, or any trailer otherwise provided to CARRIER by SUNRISE LOGISTICS or Customer ("Trailer(s)") for the performance of the Services contemplated hereunder, CARRIER shall be liable for, and, notwithstanding any other provision of this Agreement, agrees to indemnify and hold SUNRISE LOGISTICS harmless from, any damage to Trailers, destruction of Trailers, theft from Trailers, theft of any contents of Trailers, and for any claims for bodily injury (including death) or property damage caused by any Trailer(s) regardless of whether such damage, injury, destruction, or theft is caused or occurs while the Trailer is attached or unattached to any power unit operated by CARRIER, except to the extent such damage, destruction, or theft is caused by the sole negligence, recklessness, or willful misconduct of SUNRISE LOGISTICS. The initial burden of proving such damage, injury, destruction, or theft was the result of the sole negligence, recklessness, or willful misconduct of SUNRISE LOGISTICS in any proceeding brought pursuant to this Agreement shall rest on CARRIER. In the event that applicable state law does not allow SUNRISE LOGISTICS to waive liability to the extent contained in this provision, the Parties expressly agree that SUNRISE LOGISTICS' liability will be waived to the fullest extent allowed by applicable state law.

14. **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.

15. **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.

16. **WAIVER.** CARRIER expressly waives any and all rights and remedies allowed under 49 U.S.C. § 14101 to the extent that such rights and remedies conflict with this Agreement. Failure of SUNRISE LOGISTICS to insist upon CARRIER's performance under this Agreement or to exercise any right or privilege, shall not be a waiver of any SUNRISE LOGISTICS' rights or privileges herein.

17. **NOTICES.** Unless the PARTIES notify each other in writing of a change of address, any and all notices required or permitted to be given under this Agreement shall be in writing (or fax with machine imprint on paper acknowledging successful transmission) and shall be addressed to the addresses for the parties below:

SUNRISE LOGISTICS	CARRIER
Address: <u>820 North Reading Road</u> <u>Ephrata, PA 17522</u>	Address: _____
Fax: <u>717-721-2545</u>	Fax: _____

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

19. **ENTIRE AGREEMENT:** This Agreement, including all Appendices and Addenda, constitutes the entire agreement intended by and between the PARTIES and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed or implied, with respect to the subject matter hereof. Any modifications to this contract shall be initialed by both PARTIES to be valid.

**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.

SUNRISE LOGISTICS, INC.

CARRIER

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

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

Address: 820 North Reading Road  
Ephrata, PA 17522

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

Phone No.: 888-518-8502

Phone No: \_\_\_\_\_

Fax No. 717-721-2545

Fax No: \_\_\_\_\_

FID No: \_\_\_\_\_

**APPENDIX A**

1. Rates. In accordance with Paragraph 6 of the Agreement, the rates applying to the transportation services to be provided pursuant to the Agreement are set forth below:

2. Payments. In accordance with Paragraph 6 of the Agreement, any special payment requirements are set forth below:

3. Freight Loss, Damage or Delay. In accordance with Paragraph 8 of the Agreement, any special provisions dealing with cargo loss and damage claims are set forth below:

4. Insurance. In accordance with Paragraph 9 of the Agreement, any special insurance requirements are set forth below:

5. Confidentiality and Non-Solicitation. In accordance with Paragraph 11 of the Agreement, any exceptions or modifications to Confidentiality or non-solicitation provisions are set forth below:

6. Sub-Contract Prohibition. In accordance with Paragraph 12 of the Agreement, this load can / can not be brokered by the carrier as set forth below:

SUNRISE LOGISTICS, INC.

CARRIER

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

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

Sunrise Logistics, Inc  
820 North Reading Road  
PO Box 584  
Ephrata, PA 17522  
Phone: 888-518-8502

