



A subsidiary of ATS Logistics, Inc.

CONTRACT NO.: _____

DATED: _____

MOTOR CARRIER – DOMESTIC FREIGHT FORWARDER CONTRACT

AGREEMENT made this _____ day of 200_, by and between **ATS EXPRESS, INC.**

hereinafter referred to as FORWARDER, and _____

hereinafter referred to as CARRIER.

I. IDENTIFICATION OF PARTIES

WHEREAS:

- (a) ATS EXPRESS, INC. is a regulated Domestic Freight Forwarder of General Commodities pursuant to 49 U.S.C. § 13903, authorized by Permit No. FF-1877-O-P to engage in operations as a Domestic Freight Forwarder in connection with the transportation of general commodities, except household goods, between points in the United States. ATS EXPRESS, INC is authorized by 49 U.S.C. § 14101 (b) (1) to enter into contracts with motor carriers. This contract relates solely to the movement of general commodities.
- (b) CARRIER is a licensed Motor Carrier pursuant to 49 U.S.C. § 13902, authorized by License No. MC- _____ to engage in operations in connection with the transportation of general commodities, except household goods, between points in the United States. CARRIER is authorized by 49 U.S.C. §14101 (b) (1) to enter into contracts with forwarders. This contract relates solely to the movement of general commodities.

NOW THEREFORE, in consideration of the representation made herein, the parties agree as follows:

II. TERMS AND JURISDICTION OF THIS AGREEMENT

- (a) This AGREEMENT shall be governed by Title 49 of the United States Code and the Code of Federal Regulations. This AGREEMENT is to become effective _____, 200_, and shall remain in effect for a period of one year from such date, and from year to year thereafter, subject to the right of either party hereto to cancel or terminate the AGREEMENT at any time upon not less than thirty (30) days written notice of one party to the other.

III. CARRIER OBLIGATIONS

- (a) CARRIER shall issue a bill of lading for property it receives for transportation and shall be liable to the person entitled to recover under the bill of lading. The liability imposed by this paragraph is for

the actual loss or injury to the property. Failure to issue a bill of lading does not affect the liability of CARRIER. CARRIER'S liability shall be the same as a carrier's liability under 49 U.S.C. § 14706. FORWARDER makes no representation that these goods move under any limitation of liability or any released rates. FORWARDER also makes no representation that a limitation of liability or a released rate contained in FORWARDER'S agreement with its shipper will apply to CARRIER'S liability. To the extent that FORWARDER'S limitation of liability is deemed to extend to CARRIER, CARRIER may apply such limitation. The maximum liability of CARRIER shall be \$25.00 per pound or \$100,000 per shipment, whichever is less.

- (b) CARRIER agrees to maintain cargo insurance in the amount of \$100,000 to compensate those parties entitled to recover under the preceding paragraph. CARRIER shall cause its insurance carrier to forward forthwith to FORWARDER a standard Certificate of Insurance, which Certificate shall require the insurance carrier to give FORWARDER written notice thirty (30) days prior to the cancellation of such cargo insurance.
- (c) CARRIER'S liability shall begin at the time cargo is loaded upon CARRIER'S equipment at the point of origin, and continue until said cargo is delivered to the designated consignee at destination, or to any intermediate stop-off party.
- (d) CARRIER shall perform this Agreement in compliance with all federal, state and local laws relating to the transportation of freight. CARRIER agrees to defend and hold harmless FORWARDER against any and all loss or damage claims on each shipment transported by CARRIER pursuant to this Agreement. CARRIER further agrees to defend and hold harmless FORWARDER from all and any liability, costs and damages to persons and/or property arising out of CARRIER'S operations hereunder, including but not limited to all road, fuel, and other taxes, fees or permits related to the shipments transported by CARRIER as arranged by FORWARDER. This indemnification shall include payment of legal fees necessitated by FORWARDER'S defense against such claims. Any claim for indemnification under this agreement shall accrue at the time payment is made, and the applicable statute of limitations shall begin to run at that point, regardless of the period for filing claims and filing suit under the Carmack Amendment.
- (e) CARRIER authorizes FORWARDER as its agent to collect freight charges on shipments which FORWARDER has obtained for CARRIER. CARRIER shall bill FORWARDER and not FORWARDER'S customers (i.e., consignor or consignee) for freight charges. CARRIER agrees that it will not seek payment from shipper until FORWARDER has received thirty (30) day's notice of CARRIER's intent to seek recovery from shipper.

IV. FORWARDER OBLIGATIONS

- (a) FORWARDER shall offer to CARRIER for shipment a minimum of (1) shipment for each year this agreement remains in effect, and CARRIER agrees to transport those shipments during that period of time.
- (b) FORWARDER agrees to pay CARRIER for the transportation of the commodities moved under this agreement in accordance with the rate set forth herein or Addenda thereto, within (30) days of the receipt by FORWARDER of CARRIER'S invoice covering such transportation.

V. SPECIFIED RATES AND CHARGES

- (a) The basic transportation rates negotiated between the parties will be set on a per shipment basis. With the use of a Rate Confirmation Sheet, the FORWARDER will, by facsimile, send to the CARRIER the proposed or agreed upon rate for transporting the shipment documented on the issued Rate Confirmation Sheet. In return, the CARRIER, will, by facsimile, send to the FORWARDER the issued Rate Confirmation Sheet signed approving the agreed upon rate to transport the shipment.

VI. BILLS OF LADING

- (a) CARRIER shall issue a receipt or a bill of lading for property it transports and shall be liable to the person entitled to recover under the receipt of the bill of lading. If the consignor has prepared a bill of lading in accord with 49 U.S.C. § 80101 et seq., CARRIER, when picking up the shipment, shall sign the bill of lading as the agent of FORWARDER, and FORWARDER shall be shown on the bill of lading as the carrier.

VII. PROVISIONS AS TO THE SETTLEMENT OF CARGO CLAIMS

- (a) Cargo claims shall be investigated and settled in accordance with the regulations codified at 49 C.F.R. § 370 et seq. As a condition precedent to recovery, claims must be filed in writing with the receiving or delivering carrier, or carrier issuing the bill of lading, or carrier on whose line the loss, damage, injury or delay occurred, or carrier in possession of the property when the loss, damage, injury or delay occurred, within nine months after delivery has occurred or should have reasonably occurred. Suits shall be instituted against any carrier within two years, and one day from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, no carrier hereunder shall be liable, and such claims shall not be paid.
- (b) If any dispute arises about a cargo claim, the party who alleges a claim may file suit in the federal district or the state and county in which FORWARDER is located.

VIII. MEDIATION AS TO ALL DISPUTES OTHER THAN CARGO CLAIMS

- (a) If a dispute arises out of or relates to this AGREEMENT, other than a dispute about cargo claims, and the parties have not been successful in resolving the dispute through negotiation, the parties agree to attempt to resolve the dispute by submitting the dispute to mediation by the AMERICAN ARBITRATION ASSOCIATION (“AAA”) or by any method agreed upon by the parties. Each party shall bear its own expenses and an equal share of the expenses of the mediator and the fees of the AAA. The parties, their representatives, other participants and the mediator shall hold the existence, content and result of the mediation in confidence. If such dispute is not resolved by such mediation, the parties shall have the right to resort to any remedies permitted by law. All defenses based on the passage of time shall be tolled pending the termination of the mediation. Nothing in this clause shall be construed to preclude any party from seeking injunctive relief in order to protect its rights pending mediation. A request by a party to a court for such injunctive relief shall not be deemed a waiver of the obligation to mediate.

IX. TRANSIT TIME

- (a) FORWARDER and CARRIER may make agreements on each shipment as to required transit time. In the absence of an agreement between the parties, “reasonable dispatch” shall be the applicable transit time.

X. INDEPENDENT CONTRACTOR STATUS

- (a) The relationship of CARRIER to FORWARDER shall, at all times, be that of an independent contractor.

XI. NO BACK SOLICITATION BY CARRIER

- (a) CARRIER shall not solicit traffic from any shipper, consignor, consignee or customer of FORWARDER where (1) the availability of such traffic first became known to CARRIER as a result

of FORWARDER'S efforts, or (2) where the traffic of the shipper, consignor, consignee or customer of FORWARDER was first tendered to CARRIER by FORWARDER. If CARRIER breaches this agreement and "back-solicits" FORWARDER'S customers, and/or obtains traffic from such a customer, FORWARDER is then entitled, for a period of fifteen (15) months after the involved traffic first begins to move, to a commission from CARRIER of (20%) of the transportation revenue received on the movement of the traffic, as liquidated damages. Termination of this contract shall not affect the enforceability and applicability of the foregoing provisions of this clause for a period of 15 months after termination.

XII. HIRING OF OTHER CARRIERS PROHIBITED

- (a) CARRIER agrees that it shall transport all loads tendered to it under its own authority, on equipment owned or leased by it, and use employees or independent contractors under contract with it. Should a violation of the preceding sentence occur, CARRIER agrees to pay any and all charges relating to the movement of the shipment, and to indemnify and hold harmless SHIPPER and/or SHIPPER'S customers from any and all freight charges claimed to owe directly to the underlying motor carrier. CARRIER also agrees to settle any cargo claims that may arise in connection with a violation of this paragraph pursuant to 49 U.S.C. §14706.

XIII. FORCE MAJEURE EXEMPTIONS

- (a) Neither party hereto will be liable for the failure to tender or timely transport freight under this AGREEMENT if such failure, delay or other omission is caused by fire, flood, or other natural disaster, war, embargo, riot, civil disorder, through compliance with legally constituted order of civil or military authorities, provided the party uses best efforts to perform pursuant to the Agreement and provided that the party provide reasonable notice to the other party of the inability to perform.

XIV. ENTIRE AGREEMENT

- (a) This Agreement, including all Appendices, Exhibits, 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.

XV. NOTICES

- (a) or permitted to be given under this Agreement shall be in writing (or fax with machine imprint on Unless the PARTIES notify each other in writing of a change of address, any and all notices required paper acknowledging successful transmission) and shall be addressed as follows:

(FORWARDER)

Attn: _____
ATS Express, Inc.
2465 Air Park Rd.
Charleston, SC 29406
Phone: 843-747-3333
Fax: 843-747-3589

(CARRIER)

Attn: _____
Address: _____

Phone: _____
Fax: _____

XVI. SEVERABILITY

- (a) If any part of this AGREEMENT is held unenforceable, the rest of the AGREEMENT will continue in effect.

IN WITNESS WHEREOF,

The parties have set their hands and seals this _____ day of _____, 200_.

CARRIER: _____

FORWARDER: **ATS EXPRESS, INC.**

BY: _____

BY: _____

TITLE: _____

TITLE: _____