PART I

Surface Transportation Agreement Broker/Motor Carrier Agreement

PLEASE FILL OUT BOXES 1 & 3. PLEASE SIGN AND INITIAL THIS PAGE AND INITIAL REMAINING PAGES.

1. Date of Agreement		
	Broker/Motor Carrier Agreement CROWLEY	
	Part l	
Broker (name/place of business)	3. Motor Carrier (name/place of business)	
CROWLEY LOGISTICS, INC.		
9487 Regency Square Blvd N		
Jacksonville, FL 32225		
Attn: Carrier Relations Dept.		
Email: clicarriers@crowley.com	Email:	
Tel: 904-727-2455		
Fax: 904-805-1696	Fax:	
MC#: 372497	MC#:	
4. Rates and Charges (Cl. 3):		
4.1 Rates:	4.2	
Rates shall be set forth in a Rate Confirmation in the form attached hereto as ANNEX		
"A" which is incorporated herein and shall apply to each and every shipment		
hereunder.		
All other charges shall be pre-approved and agreed in writing prior to dispatch.		
Unless otherwise specified, Rand McNally Household Goods miles shall determine all		
mileage for truckload shipments.		
4.3 Incidental Charges	4.4 Specific Service Conditions, if any (Cl. 3.1)	
<u>Driver Waiting Time</u> : Motor Carrier shall notify Broker prior to expiration of free time		
<u>Driver Assist/Tie Down</u> : Motor Carrier shall notify Broker prior to driver assist	None shall apply	
Overweight Penalties: Motor Carrier shall fax a copy of any overweight citation within		
24 hours of issuance		
Hours of Issuance: If fax is not available, Motor Carrier shall call Broker's dispatch		
office (as noted in work order) and notify Broker of any citation number no later than		
24 hours after issuance		
5. Date of Termination of Initial Contract Period (Cl. 9)	6. Number of additional clauses covering special provisions, if agreed	
	None shall apply	
7. State the amount of Broad Form Cargo Legal Liability insurance coverage required (Cl.	12(ii)):	
Amount required: U.S.\$100,000.00		
Prior to commencing any services, Motor Carrier shall fax a Certificate of Insurance in acc	cordance with Cl. 12 of Part II to Broker at the number set forth in Box 2.	
8. Notices (state postal, e-mail address and facsimile number for service notice and	9. Notices (state postal, e-mail address and facsimile number for service notice	
communication to the Customer) (Cl. 15) See Box 2 which shall apply	and communication to the Motor Carrier/Vendor) (Cl. 15) See Box 3 which	
	shall apply	

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Agreement consisting of PART I and PART II as well as all documents attached hereto or available on-line and incorporated by reference herein, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions between parts, the provisions of PART I and all documents incorporated by reference shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Broker)	Signature (Motor Carrier)	
For and on behalf of Broker:	For and on behalf of Motor Carrier	
CROWLEY LOGISTICS, INC.		
Ву:	Ву:	
Title:	Title:	
Date:	Date:	



Initials: Crowley Carrier

PART II

Surface Transportation Agreement - Broker/Motor Carrier

1. Definitions

In this Agreement save where the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them. "Motor Carrier" means the Party identified in Box 3 of Part I that is approved by Broker to transport and deliver Freight for and on behalf of a Shipper. "Shipper" means the beneficial owner of the Freight subject to this Agreement that may be either the consignor or the consignee or some other third narty.

"Freight" means Shipper's cargo transported in Equipment provided by Motor Carrier.

"Broker" means the Party identified in Box 2 of Part I that is authorized to arrange for transportation of their Freight and, if Crowley Logistics, Inc. ("CLI") is so identified, "Broker" shall, in the context of Clause 11, include CLI's parent company and each of its parent company's direct and indirect subsidiaries, affiliated or related corporations or entities thereof, and their insurance underwriters including but not limited to Beacon Insurance Company, Ltd. and its reinsurers.

"Equipment" means any and all vehicles, tractors, trailers, containers, chassis, bogies, flatbeds, tanks, refrigerator vans or containers either owned, leased, interchanged or otherwise under the custody and control of the Motor Carrier (including, but not limited to any containers, chassis or trailers owned or leased by CLI or its affiliates but interchanged to Motor Carrier) which, from time to time, may be operated or hauled by Motor Carrier under this agreement.

"Roadworthy" means the vehicle or tractor meets or exceeds the current DOT safety requirements, (including but not limited to FHWA requirements) and is reasonably fit for its intended use.

2. Scope of Service, Equipment and Personnel of Motor Carrier

2.1 Motor Carrier warrants and represents it is a motor carrier as defined by 49 U.S.C. §13102(12) and is duly registered with the Federal Motor Carrier Safety Administration ("FMCSA") pursuant to 49 U.S.C. §13902 and §13905. Motor Carrier warrants and represents that it does not have, and that it will not have during any time that it performs services under this Agreement, an "Unsatisfactory" Motor Carrier Safety Rating issued by the U.S. Department of Transportation ("DOT") or any analogous safety rating issued by any other entity with jurisdiction over Motor Carrier's operations. Motor Carrier shall keep in full force and effect at all times, all of the necessary federal and state permits, licenses and operating authorities to enable it to lawfully serve Broker and its Shipper-Customer as a motor carrier pursuant to this Agreement. The scope of the service contemplated by the parties is as follows:

- i. Service Motor Carrier agrees to provide lawful and responsible transportation service to Broker and its Shipper-Customers in intrastate, interstate and/or foreign commerce at such times and places as Broker may from time-to-time request and to transport and deliver Freight loads properly and in like good order and condition in accordance with the pickup and delivery schedules established by Broker and the terms and conditions contained in this Agreement. Motor Carrier represents and warrants that it is fully qualified and adequately equipped to perform the motor carrier services it is obligated to provide hereunder and that all transportation shall be performed in a good and workmanlike manner in accordance with standard industry practices as well as in accordance with any instructions or schedules provided by Broker or the Shipper.
- ii. **Vehicles** Motor Carrier shall, at its sole cost and expense, operate, maintain and provide Roadworthy Equipment suitable for intended use and in proper operating condition for the transportation of Freight under this Agreement. Motor Carrier warrants that such Equipment meets or exceeds DOT standards as set forth in C.F.R. Part 393 and is Roadworthy and otherwise reasonably fit for its intended use, i.e. safe, dry, clean, odor free, well maintained and in compliance with all applicable Federal and State Regulations.
- iii. **Personnel** All personnel used by Motor Carrier to provide services hereunder shall be duly licensed and trained in accordance with all applicable laws, rules, and regulations including, but not limited to, DOT qualified drivers with the proper endorsements that meet the standard set by FMCSA in C.F.R. Part 391. Motor Carrier shall also provide, supervise and control competent, skilled and properly licensed drivers, dispatchers, and other personnel necessary to perform its services hereunder, and furnish all Equipment and supplies necessary to properly operate the Equipment so furnished.

3. Rates, Accessorial Charges and Payment Terms

- **3.1 Rates and Charges** Unless a signed Rate Confirmation Agreement in the form attached hereto as ANNEX "A" has been signed by the parties with respect to a particular move, in which case the Rate Confirmation Agreement will govern, Motor Carrier shall be compensated for the transportation services it actually provides hereunder based on previously agreed rates and accessorial charges as set forth as ANNEX "B". If rates and charges for a load have not been previously agreed at the time of pick-up or no evidence of previously agreed rates and charges exist, rates and charges shall be pursuant to Broker's "Authorization Number," which Broker and Motor Carrier agree shall be conclusive proof of the rates and charges applicable to such load. Where rates are dependent upon mileage, the mileage guide used by Broker on the date the load dispatched will govern. Motor Carrier acknowledges and agrees the Broker can change its applicable mileage guide at any time and that application of the mileage guide may result in compensation for a different number of miles than miles actually travelled. Motor Carrier hereby acknowledges and agrees that no other compensation will be due or owing for services hereunder except as expressly set forth in this provision.
- 3.2 Payment No later than fifteen (15) days following completion of each shipment, Motor Carrier shall provide Broker an invoice including the authorization number provided by Broker at time of tender for the amount of any compensation due hereunder and any additional charges permitted together with proof of delivery and a signed copy of the bill of lading. Subject to its right of set-off, Broker will remit payment within thirty (30) days of Broker's receipt of Motor Carrier's invoice. If Motor Carrier alleges undercharges, or Broker alleges overcharges, duplicate payment, or over-collection, notice of such claims or unidentified payments must be given within 180 days of receipts of the invoice and a civil action or arbitration proceeding must be filed within eighteen (18) months of delivery or tender of delivery of the loads involved. The processing, investigation and deposition of overcharge, unidentified payment, duplicate payment or over-collection claims shall be governed by present federal regulations codified at 49 C.F.R. Part 378 Motor Carrier acknowledges and agrees that it shall have no lien and hereby waives its right to any lien upon any shipment or portion thereof covered by this Agreement. Broker shall have the right to set-off or withhold from payment any amounts owing or reasonably alleged to be owed by Motor Carrier to Broker. Motor Carrier will look solely to Broker for payment and in no event will Motor Carrier seek payment from the Shipper, its suppliers or customers.

4. Requirements of Broker

Broker is licensed by the FMCSA as a property broker as identified in Box 2 of Part I and is duly authorized to arrange for transportation of Freight by entering into, tendering loads under and receiving and transmitting Freight payments in accordance with, this Agreement.

5. Service Standards



CLI Version 3 – 06/01/12	Initials:	
	Crowley	Carrie

- **5.1** On Time Performance Motor Carrier shall maintain an on-time delivery measure of no less than 98% on all deliveries made by Motor Carrier. Upon request of Broker, Motor Carrier shall submit on-time performance reports to Broker monthly in format required by Broker.
- **5.2** Load/Equipment Security Motor Carrier shall not drop Equipment or Freight other than at the designated business facilities of consignee or at a location designated by Broker. Motor Carrier shall indemnify, defend and hold Broker harmless from and against any and all liabilities, including but not limited to suits, demands, causes of action, damages adjudged due or claims reasonably settled, penalties, costs and expenses (including reasonable attorneys' fees) arising from or in connection with breach of this sub-clause 5.2.
- **5.3** *Driver Communication* All drivers shall have working cell phones (which devices must be used in accordance with all applicable federal, state and local laws, rules, regulations and ordinances regarding the use of such devices, including, but not limited to, the federal ban of hand held mobile telephones) or pagers. Motor carrier is responsible to notify Broker of any delays that will cause the driver to be late for an appointment. Failure to notify Broker prior to a stated appointment time shall result in a \$100.00 penalty to the Motor Carrier, or pass through of any late delivery chargebacks assessed against the Broker, whichever is the greater.
- **5.4** *Refrigerated Loads* Motor Carrier's drivers shall ensure paperwork received from Broker or its Shipper-Customer specifies a set temperature requirement, that the refrigeration unit is functional, that the temperature gauge is working accurately, and that the temperature gauge on the Equipment reflects the temperature noted on the Broker's or its Shipper-Customer's paperwork. Motor Carrier's driver shall not depart from Shipper or Consignor's facility until these requirements are met.
- **5.5** Hazardous Material (HAZMAT) Loads Motor Carrier certifies that its employees, including drivers, have been trained and instructed in the proper method of transporting Hazardous Materials. Motor Carrier shall ensure that all drivers dispatched on Hazmat loads have proper endorsements, insurance coverage and training to transport such loads in accordance with 49 C.F.R. 172.704. Drivers shall ensure that all Hazmat loads are properly placarded before hooking tractor to Equipment load.
- 5.6 Substituted Services In its performance of the services hereunder, Motor Carrier agrees that it will transport Freight moving under this Agreement on equipment moving under Motor Carrier's own operating authority and that it shall not subcontract transportation of such Freight to any other carriers, forwarders, logistics providers or brokers without the advanced express prior written consent of Broker. Regardless of whether such authorization is obtained, if Motor Carrier subcontracts transportation of any Freight hereunder, Motor Carrier will remain directly liable as if it had transported the Freight under this Agreement and in such case, Broker may, in its sole discretion, pay transportation charges to the subcontracted service provider directly.

6. Motor Carrier Authority and Compliance with Laws and Regulations

- 6.1 Motor Carrier, in performing its obligations under this Agreement, shall at all times comply fully with all applicable federal, state and municipal laws, ordinances, orders and permits applicable to or relating in any respect to the operation of its business, and with the rules and regulations of all regulatory bodies having jurisdiction over Motor Carrier and over its motor vehicle(s) and Equipment, its personnel, and the transportation services provided hereunder. Motor Carrier further warrants that motor carrier Equipment used by it in its performance hereunder shall at all times conform to the requirements of this Agreement and to all laws, ordinances, rules and regulations applicable to such vehicles and/or Equipment. Motor Carrier further agrees to indemnify, defend and hold harmless Broker for any loss, damage, fine, penalty or any expense whatsoever as a result of Motor Carrier's failure to comply with all applicable laws and regulations.
- **6.2** Motor Carrier shall cause its personnel to maintain the highest standards of professionalism in the performance of services provided hereunder. Motor Carrier shall conduct pre-employment drug tests as well as random drug tests and post accident testing for all temporary or permanent drivers in accordance with DOT regulations. Neither Motor Carrier nor any of its personnel shall take any action that adversely affects the public image, goodwill or reputation of Broker. When on Broker's or its Shipper-Customer's premises, Motor Carrier shall comply with the safety practices and procedures established for those premises.
- 6.3 Motor Carrier acknowledges that the services to be performed under this Agreement include the transportation of Hazardous Materials, as defined in the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq., as amended, and DOT regulations made hereunder. Motor Carrier represent and warrants that it is fully qualified and authorized to transport Hazardous Materials in the United States. Motor Carrier certifies that it is familiar with U.S. laws and regulations applicable to transportation of Hazardous Materials and that it will comply with all such laws and regulations.

7. Independent Contractor

Motor Carrier agrees that no authority has been conferred upon Motor Carrier by Broker to hire any persons on behalf of Broker or its Shipper-Customer, that each person employed or used by Motor Carrier in transporting loads hereunder shall be paid by Motor Carrier and that no such person shall be considered to be in the employ of Broker. It is understood that Motor Carrier shall have the exclusive right to select, engage and discharge its employees and otherwise to direct and control their services. It is further understood that for all purposes of this Agreement, Motor Carrier shall be an Independent Contractor, shall have exclusive control and direction of the persons operating its Equipment or otherwise engaged in performing the transportation services provided for hereunder and neither Broker, nor any of its employees shall be deemed to be employees or agents of Motor Carrier

8. Cost and Expenses of Operations

Motor Carrier shall bear all the cost, expense and liability for providing transportation under this Agreement, including, but not limited to, all of the cost and expenses required for the operation, maintenance and repair of Equipment, all labor cost and expenses, and all cost and expenses for the procuring and maintaining of all insurance, licenses and permits, all fees, fines, licenses, bonds or taxes as may be required for the performance of its transportation service hereunder. Except as provided herein, Motor Carrier shall not be responsible for any expenses incurred by Motor Carrier in performing services for Broker.

9. Duration of the Agreement

This Agreement shall commence as of the date set forth in Box 1 of Part I and remain in full force and effect through the date set forth in Box 5 of Part I, the "Initial Contract Period". This Agreement shall automatically renew for additional 1 year periods (each a "Renewal Contract Period") unless and until terminated by either Party in accordance with Clause 10.

10. Termination

This Agreement may be terminated upon notice by the termination party to the other party during either the Initial Contract Period or any Renewal Contract Period, which notice shall specify the reason for the termination and the effective date of such termination, upon or after the occurrence of the following events:

- Motor Carrier's breach of this Agreement; or
- ii. Either party becomes insolvent, is forced to or does file for protection under bankruptcy or receivership law, or otherwise becomes unable to pay its debts in a timely manner; or
- iii. Either party provides the other with written notification of termination for any reason effective not less than thirty (30) days after receipt thereof:

Termination of this Agreement shall not terminate of otherwise affect any accrued obligations of one party to the other party under this Agreement, which have arisen prior to such termination. In the event of a termination under the paragraph, Motor Carrier shall be paid only for services rendered through the date of termination.

CLI Version 3 - 06/01/12



Initials:		
	Crowley	Carrier

11. Responsibilities

- 11.1 Force Majeure In the event performance by one party is affected by any cause beyond the reasonable control of such party, including without limitation, fire, labor strife, riot, war, acts of the public enemy, acts of God, acts of terrorism, local or national disruptions to transportation networks or operations, governmental regulations or governmental request or requisition for national defense and provided that the applicable cause is not attributable to the acts or omissions of such party is taking reasonable measures to remove or mitigate the effects of the applicable cause, then the running of all periods of time mentioned herein and the performance of all obligations required herein shall be suspended during the continuance of such interruption and such party shall promptly notify the other party of such interruption. Such period of suspension shall not in any way invalidate this Agreement, but on resumption of operations, any affected performance by such party shall be resumed. Motor Carrier shall be permitted an extension period equal to the period of suspension to complete shipments adversely affected by the suspension.
- 11.2 Liability to Broker and Third Parties Motor Carrier shall be liable to Broker and all third parties (including but not limited to Broker's Shipper-Customer) for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit or use arising from or in connection with detention of or delay to Freight or the injury to loss of profit or use arising from or in connection with detention of or delay to Freight or the injury to or death of any person or damage to any property) arising from or in connection with the negligence, gross negligence or willful misconduct of Motor Carrier, its employees, agents, subcontractors and all others acting under Motor Carrier's direction or control in the performance of this Agreement.
- 11.3 Freight Without limiting the generality of the foregoing sub-clause 11.2, Liability to Broker and Third Parties, Motor Carrier shall be liable to Shipper and Broker for all Freight damage, loss, or delay including but not limited to shortage of containerized or trailerized cargo in accordance with the Carmack Amendment as currently codified at 49 U.S.C. §14706. Motor Carrier shall, immediately upon discovering evidence of Freight loss, damage or shortage, give notice of such to Broker. Motor Carrier shall provide to Broker a detailed written incident report within 24 hours of discovering any Freight loss, damage or shortage. Claims will be filed and resolved in accordance with federal regulations codified at 49 C.F.R. Part 370. Motor Carriers liability will be for the full value of the product so lost, damaged or delayed, as evidenced by Shipper's sale invoice if the Freight has been sold, and in no event shall Motor Carrier's liability be limited. Motor Carrier acknowledges and agrees that Shipper or any other party having an interest in the Freight may prohibit salvage thereof, and Motor Carrier hereby waives its right to salvage or to claim any offset for salvage.
- 11.4 Indemnity Motor Carrier shall indemnify, defend and hold Broker and the Shipper harmless from and against any and all liabilities, including but not limited to suits, demands, causes of action, damages adjudged due or claims reasonably settled, penalties, costs and expenses (including reasonable attorney's fees) arising from or in connection with:
 - The negligence, gross negligence or willful misconduct or breach of this Agreement or violation of any applicable law or regulation by Motor Carrier or its employees, agents, subcontractors and all others acting under Motor Carrier's direction or control in the course of performing Services under this Agreement, and
 - ii. Claims by any of Motor Carrier's employees for injuries or damages, and
 - iii. Claims alleged against Broker and/or Motor Carrier under this Agreement caused the injury to or death of any person or damage to any property, including but not limited to all third party claims arising from the injury to or death of any person or damage to any property, and
 - iv. Claims by all third parties (including but not limited to Broker's Shipper-Customer) against Broker and/or Motor Carrier for those liabilities Motor Carrier specifically assumes in sub-clauses 5.2, 11.2 and 11.3 hereof.
- 11.5 Consequential Loss In no event shall Broker or Shipper be liable for any claim for loss of profits or incidental, special, consequential or liquidated damages of any nature whatsoever in any way arising from or in connection with this Agreement and regardless of whether Shipper or Broker had knowledge of the possibility of such damages.

12. Insurance

Motor Carrier, at its sole cost and expense, including the cost of all deductibles, shall procure and maintain in force during the term of this Agreement the following insurance coverage:

- Liability insurance, including auto liability, personal injury and property damage (AL), with limits of liability of at least \$1,000,000 per occurrence or such greater amount as required by applicable law, rule or regulation.
- ii. Broad Form Cargo Legal Liability (CLL) insurance in an amount of at least that which is identified in Box 7 of Part I (any one occurrence) or, if an amount is not identified in Box 7 of Part I, in an amount of at least \$100,000.00 any one occurrence in addition to cargo insurance required by applicable State or Federal Laws (if Motor Carrier provides evidence to Broker that it holds higher limits of cargo insurance Motor Carrier may qualify to haul additional loads available from Broker) which insurance will contain no exclusions or conditions to coverage reasonably likely to result in denial or coverage for claims arising hereunder including, but not limited to, exclusions related to refrigerated unit malfunction, unattended or unattached trailers, or commodity exclusions; and
- iii. Commercial General Liability (CGL) insurance, on a per occurrence basis, endorsed to cover premises operations, products/completed operations, personal injury and contractual liability, including any and all liability assumed under this Agreement; with limits of liability of at least \$1,000,000 any one occurrence; and
- iv. Workers' Compensation insurance, in accordance with applicable law covering applicable statutory benefits in the State where work is being performed; Employer's Liability (EL) insurance in an amount of at least \$1,000,000. If Motor Carrier uses independent contractor drivers that are not covered by workers' compensation, then Motor Carrier will ensure that such drivers are covered by an occupational-accident or analogous policy of insurance providing benefits in the event of work-related injury.

All policies shall be written with Insurers carrying no less than an "A- VII" rating from A.M. Best and be endorsed to waive all rights of subrogation against Broker. Broker shall be an additional insured with respect to the AL, CLL, CGL and EL Policies and shall receive a minimum of thirty (30) days notice of any cancellation of such coverages. Should motor Carrier fail to procure or maintain any of the required insurance coverage, or by any act or omission, vitiate or invalidate any of the aforementioned coverages, then Motor Carrier shall indemnify Broker to the extent Broker suffers or incurs loss, damage, liability or expense in consequence of such failure, act or omission. All Motor Carrier policies shall be primary to insurance provided or carried by Crowley Logistics, Inc. and any "other insurance" clauses or contractual provisions which in any way lessen or diminish the full amount of insurance provided to Crowley Logistics, Inc. by the Motor Carrier shall be amended accordingly.

13. General Provisions

- 13.1 Headings Captions used in this Agreement are for convenience of reference only and shall have no legal effect or meaning in the construction or enforcement of this Agreement.
- **13.2** Drafting Whenever used in this Agreement, the singular shall include the plural and the plural shall include the singular, and the neutral gender shall include the male and female as well as a trust, firm, company or corporation, all as the context and meaning may require.
- **13.3** Severability If, in any legal proceeding, it is determined that any provision of this Agreement is unenforceable under applicable law, then the unenforceable provision shall be amended to the extent necessary to bring it into conformity with such law. In any event, the validity or enforceability of any provision shall not affect any other provision of this Agreement, and the Agreement shall be construed and enforced as if such provision had not been included.
- 13.4 Third Party Beneficiaries Except as specifically provided for elsewhere in this Agreement (in particular, with respect to benefits reserved to the Shipper, but not limited thereto), this Agreement shall not be construed to confer any benefit on any third party not a party to it nor shall the Agreement provide any rights to such third party to enforce its provisions.

CLI Version 3 – 06/01/12



Initials	s:	
	Crowlev	Carrier

- 13.5 Waiver No benefit or right according to either party under this Agreement shall be waived unless the waiver is reduced to writing and signed by both Broker and Motor Carrier. The failure of either party to exercise any of its rights under this Agreement, including but not limited to either party's failure to comply with any time limit set out in this Agreement, shall in no way constitute a waiver of those rights, nor shall such failure excuse the other party from any of its obligations under this Agreement.
- **13.6** Warranty of Authority Broker and Motor Carrier each warrant and represent that the person whose signature appears in Part I of this Agreement is its representative and is duly authorized to execute this Agreement as a binding commitment of such Party.
- 13.7 Applicability of Bills of Lading and Governing Rules Each shipment hereunder will be evidenced by a bill of lading acceptable to the Broker. The bill of lading will act as a receipt for goods and as a record of the relevant shipping instructions only. As such, the bill of lading will evidence Motor Carrier's receipt of the quantity of Freight indicated on the bill of lading in good order and condition unless otherwise stated on the face of the bill of lading. Motor 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. Motor Carrier's drivers shall execute non-conforming bills of lading as receipt for goods only. Under no circumstances shall Motor Carrier prepare a freight document, which lists Broker as "Carrier" or "Shipper". Documents for each of Broker's loads shall name Broker as "Broker" and Motor Carrier as "Carrier". If there is a wrongly worded document, the Parties will treat it as if it showed Broker as "Broker" and Motor Carrier as "Carrier". In no event will the terms or conditions of any transportation document related to any load, including but not limited to Bill of Lading, Rate Confirmation or Motor Carrier's Rules Circular, or tariff apply to any services provided under this Agreement. Motor Carrier agrees to indemnify and hold Shipper and Broker harmless from any direct, indirect and consequential loss, damage, fine, 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".
- 13.8 Counterparts This Agreement may be executed and delivered by each party in separate counterparts (including execution and delivery by facsimile transmission), each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement, notwithstanding that all the parties have not signed the same counterpart.
- **13.9** Integration This Agreement, and any annexes, schedules or other documents attached to each and signed by the parties or otherwise incorporated herein constitute the entire agreement between the parties hereto 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 pertaining thereto.
- **13.10** Back Solicitation During the term of this Agreement and for a period of twelve (12) months thereafter, Motor Carrier shall not transport or arrange to transport, either directly or indirectly, freight shipments from any shipper, consignor, consignee or other customer or Broker, when: such shipments of the shipper, consignor or consignee or Broker customer were, first tendered to the Motor carrier by the Broker or where the shipper, consignor, consignee or Broker customers were customers of Broker and not customers of Motor Carrier before their shipment were tendered by Broker to Motor Carrier. Motor Carrier shall confer with Broker if it in doubt with respect to the application of this provision with any such shipper, consignor, consignee or Broker customer.
- 13.11 Breach of Back Solicitation Clause In the event of breach of sub-clause 13.10, Broker shall be entitled to a commission of twelve percent (12%) of the gross transportation revenue (as evidenced by freight bills) received by Motor Carrier for the transportation of said freight as liquidated damages, for a period of twelve (12) monthsbeginning on the date of Motor Carrier's first breach of this provision. Additionally, Broker may seek injunction relief to enforce the prohibitions set out in section 13.10 above and in the event it is successful, Motor Carrier shall be liable for all costs and expenses incurred by Broker, including, but not limited to reasonable attorney fees.
- 13.12 Factoring If Motor Carrier has entered into a factoring arrangement or agreement with a third party(ies), Broker will make payments to the third party factoring entity only after prior written notice to Broker, with satisfactory support and confirmation by Motor Carrier regarding the terms of the factoring agreement, and such notice shall include the account to which Broker is to make the required payments. Motor Carrier hereby releases Broker from any further liability for such factoring payments upon payment to said factoring entity, and shall indemnify, defend and hold harmless Broker from any claims or liabilities in connection with the payment to the factoring entity by Broker.

14. Governing Law and Arbitration

- **14.1** The parties desire that the provisions of this Agreement will have precedence over any federal or state provisions governing or dealing with the specific provisions of this Agreement. The parties agree that pursuant to 49 U.S.C. §14101(b)(1) they expressly waive any and all rights and remedies under the Interstate Commerce Commission Termination act and Interstate Commerce Act as amended, and regulations promulgated thereunder, including Part B of Subtitle IV Interstate Transportation, 49 U.S.C. §13101, et seq. (the "Acts") to the extent such laws and regulations are inconsistent with the provisions of this Agreement. No Party shall challenge any provision of this Agreement on the ground that any such provision or provisions violates the waived rights and remedies under the Acts. Motor Carrier hereby waives its right to obtain copies of Broker's records as provided for under 49 C.F.R. §371.3 by any means whatsoever and Motor Carrier agrees to refrain from utilizing such records in negotiating for the provision of services with any third party, including any Shipper or other customer of Broker. All such records compromise confidential and protected trade secret information of Broker and nothing herein is intended to or shall limit Broker's right to enforce laws or regulations protecting such information. To the extent no conflicts exist with this Agreement or federal law, this Agreement will be governed by and construed in accordance with the laws of the State of Florida.
- **14.2** The sole remedy for the resolution of disputes between the parties under this agreement will be the arbitration before one arbitrator, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The decision of the sole Arbitrator shall be final, and for the purpose of enforcing any award this agreement may be made a rule of any court of competent jurisdiction over this agreement.

15. Notices

15.1 Any notice required or permitted to be given under this Agreement, unless otherwise indicated, shall be deemed sufficiently given if it is delivered by hand or sent by prepaid mail, registered or certified, return receipt requested, by a nationally recognized overnight courier, or facsimile, e-mail (providing for electronic confirmation) if sent to the address, fax number or e-mail address and to the attention of the individual noted in the signatory provision of Part I.

CLI Version 3 - 06/01/12

CROWLEY

Initials:		
	Crowley	Carrie