

CO-BROKERAGE AGREEMENT

This co-brokerage agreement is between the Kair Harbor Express LLC (“Kair”), and XXXX (“XXX”).

Kair is licensed as a property broker by the Federal Motor Carrier Safety Administration (“FMCSA”), docket number MC1094853, and as a licensed broker, arranges for transportation of freight by motor carriers.

XXX is licensed as a property broker by the FMCSA, docket number MC999999, and as a licensed broker, arranges for transportation of freight by motor carriers.

On occasion and on a non-exclusive basis, a party (the “Tendering Broker”) may use the other party’s brokerage services (the “Arranging Broker”) to arrange the transportation of the Tendering Broker’s customers’ freight.

Now therefore the parties agree as follows:

1.0 TERM AND EFFECTIVE DATE. The term of this agreement shall be for one year from the Effective Date and shall automatically renew for successive one-year periods. Either party may terminate the agreement at any time by giving 30 days’ prior written notice of the termination date. “Effective Date” means the date that the second party to sign the agreement has done so, as indicated by the date stated in that party’s signature block on the last page of this agreement.

2.0 SERVICE. The Arranging Broker shall arrange the transportation of the Tendering Broker’s customers’ freight in compliance with all applicable federal, state, and local laws and regulations. For each load for which Tendering Broker requests service, Tendering Broker shall e-mail or fax Arranging Broker a booking advice that will state the pertinent details for that load.

3.0 VOLUME.

3.1 This agreement guarantees no minimum volume of freight. Business shall be on an as-needed basis and only as to freight as to which the Arranging Broker accepts the tender.

3.2 The Tendering Broker shall provide the Arranging Broker timely and accurate delivery instructions and descriptions of the freight, including any special handling or security requirements.

4.0 FREIGHT CARRIAGE. The Arranging Broker has entered into or will enter into a bilateral written contract of carriage (“contract of carriage”) with each licensed and insured motor carrier that the Arranging Broker arranges to perform transportation under this agreement. The Arranging Broker shall be solely responsible for exercising due diligence in selecting such licensed and insured motor carriers, which diligence shall include verifying each motor carrier’s identity to prevent fictitious pick-up of freight by an imposter who has stolen the identity of the motor carrier.

The Arranging Broker’s contracts of carriage shall comply with all applicable federal and state laws and regulations and shall include the following provisions:

4.1 Each motor carrier shall be in and shall maintain compliance during the term of this agreement with all applicable federal, state, and local laws relating to all aspects of the motor carrier’s operations, including the following:

- 4.1.1 transportation of hazardous materials, including the licensing and training of drivers, as defined in 49 C.F.R. §§ 172.800, 173, and 397 *et seq.*, to the extent that any shipments include any hazardous materials;
- 4.1.2 security regulations;

- 4.1.3 owner/operator lease regulations;
- 4.1.4 loading and securement of freight regulations;
- 4.1.5 implementation and maintenance of driver safety regulations, including hiring, controlled substances, and hours of service regulations;
- 4.1.6 sanitation, temperature, and contamination requirements for transporting food, perishable, and other products, qualification and licensing and training of drivers;
- 4.1.7 implementation and maintenance of equipment safety regulations;
- 4.1.8 maintenance and control of the means and method of transportation, including the performance of its drivers;
- 4.1.9 oversize/overweight permits and routing; and
- 4.1.10 satisfaction of all final court judgments, tax assessments, or tax liens that may be released to the public under federal and state disclosure laws, including any order, decision, or award obtained by a public or private person or entity pursuant to California Labor Code § 98.1 finding that a port drayage motor carrier has engaged in illegal conduct including failure to pay wages, imposing unlawful expenses on employees, failure to remit payroll taxes, failure to provide workers' compensation insurance, or misclassification of employees as independent contractors with regard to a port drayage commercial driver.

4.2 Each motor carrier shall agree to defend and indemnify the parties from and against all damages, claims, or losses arising out of its performance of the contract of carriage, including cargo loss and damage, theft, delay, damage to property, and personal injury or death.

4.3 Each motor carrier shall agree that its liability for cargo loss or damage shall that of a motor carrier under 49 U.S.C. § 14706, i.e., the Carmack Amendment. Exclusions in a motor carrier's insurance coverage shall not exonerate or diminish the motor carrier's liability under the Carmack Amendment.

4.4 Each motor carrier shall agree to maintain during the term of its contract of carriage, insurance coverages with limits not less than the following:

- 4.4.1 Public liability insurance, i.e., liability for bodily injury or property damage and that includes liability for environmental restoration, in an amount not less than \$1,000,000 per occurrence, or \$5,000,000 for freight subject to 49 C.F.R. Part 387.
- 4.4.2 Motor truck cargo legal liability insurance in an amount not less than \$100,000 per occurrence. Such insurance policy shall provide contractual liability coverage for any loss, damage, or delay related to any freight in the motor carrier's possession that it has agreed to transport under its contract of carriage with the Arranging Broker.
- 4.4.3 Statutory workers' compensation insurance and employer's liability coverage in such amounts and in such form as the applicable state law requires.

The Arranging Broker shall verify that each motor carrier it contracts in the performance of this agreement has the above insurance coverages during the term of this agreement and the Arranging Broker shall provide the Tendering Broker a copy of a certificate of insurance that states the workers' compensation insurance coverage of each motor carrier with which the Arranging Broker enters a contract of carriage. The Arranging Broker shall defend and indemnify the Tendering Broker from and against any loss, damage, liability, claim, demand, action, proceeding, cost, or expense, including reasonable attorneys' fees, expenses of investigation, judgments, fines, or penalties that the Tendering Broker has paid or incurred, that arises out of or is in any way connected with the failure of any of the above insurers to cover any claim in its entirety. The Arranging Broker shall defend and indemnify the

Tendering Broker from and against any loss, damage, liability, additional insurance premium, claim, demand, action, proceeding, cost, or expense, including reasonable attorneys' fees, expenses of investigation, judgments, fines, or penalties that the Tendering Broker has paid or incurred, that arises out of a motor carrier's failure to obtain workers' compensation insurance for the motor carrier's drivers, regardless of their classification as the motor carrier's employees or as independent contractors.

4.5 Each motor carrier shall agree that 49 C.F.R. § 370.1 *et seq.* shall govern the processing of claims for loss, damage, injury, or delay to property and the processing of salvage.

4.6 Each motor carrier shall agree that the Arranging Broker is the sole party responsible for the payment of any motor carrier's freight and other charges. Failure of the Tendering Broker to collect freight and other charges from its customer shall not relieve the Arranging Broker of its duty to pay the motor carrier in question. The Arranging Broker agrees to pay each motor carrier's invoice according to its terms, at the latest within 30 days of receipt of the bill of lading or proof of delivery, provided the motor carrier is not in default. The Arranging Broker agrees and each motor carrier shall agree that no motor carrier will seek payment from the Tendering Broker or any other party if the Tendering Broker or such other party can prove payment to the Arranging Broker. Each motor carrier shall agree that its extension of credit as to the transportation of freight under this agreement shall be solely to the Arranging Broker, with no right of recourse against the Tendering Broker if it can prove that it or any other party has paid the corresponding freight and other charges to the Arranging Broker.

4.7 Each motor carrier shall agree that at no time during the term of the contract of carriage with the Arranging Broker shall the motor carrier have invalid operating authority or an "Unsatisfactory" safety rating from the FMCSA. If a motor carrier were to receive an "Unsatisfactory" safety rating, then it shall immediately notify the Arranging Broker, which shall not knowingly use any motor carrier with an "Unsatisfactory" safety rating in the performance of this agreement.

4.8 Each motor carrier shall agree that its contract of carriage with the Arranging Broker shall apply on all shipments it handles for the Arranging Broker that it arranges under this agreement. Any terms in a motor carrier's tariff, bill of lading, or any other document that are inconsistent with the contract of carriage shall be subordinate to the terms of the contract of carriage.

4.9 Each motor carrier shall agree to review and abide by the CARB ATCM for TRUs on the internet at www.arb.ca.gov/diesel/tru/tru.htm and www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm and that all refrigerated equipment necessary or required for the performance of each motor carrier's obligations ("Equipment"), including 53-foot trailers, both dry-van and refrigerated Equipment, operated within California are in compliance with CARB's ATCM for TRUs and that prior to transporting any goods under the agreement, each motor carrier shall inspect its Equipment for compliance with CARB ATCM TRU regulations, cleanliness, odors, dirt, or debris before loading.

5.0 SUB-CONTRACTING PROHIBITION WARRANTY. As a condition to the both parties' willingness to enter into this agreement, each party agrees that it shall not sub-contract, broker, co-broker, double-broker, assign, or interline any loads that the Tendering Broker tenders to the Arranging Broker under this agreement without the Tendering Broker's prior written consent.

_____ Kair's initials as to sub-contracting prohibition warranty

_____ XXX's initials as to sub-contracting prohibition warranty

6.0 RECEIPTS AND BILLS OF LADING. If the Tendering Broker were to so request, then the Arranging Broker will provide the Tendering Broker with proof of delivery of any load in the form of a signed bill of lading or proof of delivery, as the Tendering Broker will specify. The Tendering Broker's

insertion of the Arranging Broker's name on the bill of lading shall be for the Tendering Broker's convenience only and shall not change the Arranging Broker's status as a property broker. All bills of lading and any other freight documentation that either the Arranging Broker or a motor carrier may use shall be subordinate to this agreement.

7.0 PAYMENTS. The Tendering Broker shall pay the Arranging Broker's invoice within 30 days of its date without deduction or set-off. The Arranging Broker shall apply payment to the amount due for the specified invoice, regardless of whether there are earlier unpaid invoices. The Tendering Broker's payment of the freight charges to the Arranging Broker shall relieve the Tendering Broker, the freight's shipper, the consignee, and any other potentially responsible party from any liability to the underlying motor carrier for non-payment of its freight and other charges. The Arranging Broker agrees to defend and indemnify the Tendering Broker, any shipper, any consignee, and any other potentially responsible party from and against any liability to any motor carrier as to its freight or other charges.

8.0 CLAIMS.

8.1 Freight Claims. The Tendering Broker must file claims for freight loss or damage with the Arranging Broker within nine months from the date of such loss, shortage, or damage, which for purposes of the agreement shall be the delivery date or, in the event of non-delivery, the scheduled delivery date. The Tendering Broker must file any civil action against the Arranging Broker within two years from the date the underlying motor carrier or the Arranging Broker provides written notice to the Tendering Broker that the motor carrier has disallowed any part of the claim in the notice. Motor carriers that the Arranging Broker uses to transport freight under this agreement shall agree in writing with the Arranging Broker to be liable for the loss of or damage to freight as stated in section 4.3 of this agreement. A motor carrier's liability for any one occurrence shall not exceed \$100,000 unless, before the transportation, the Tendering Broker notifies the Arranging Broker of the increased value with reasonably advanced notice to allow the Arranging Broker or the motor carrier to procure additional insurance coverage. The Arranging Broker shall assist the Tendering Broker in the filing of claims with the motor carrier. If the Arranging Broker were to pay a claim to the Tendering Broker, then it would automatically assign its rights and interest in the claim to the Arranging Broker. In no event shall the Arranging Broker or the underlying motor carrier be liable to the Tendering Broker for special, incidental, or consequential damages that relate to loss, damage or delay to a shipment, unless the Tendering Broker has informed the Arranging Broker in written or electronic form, prior to or when tendering a shipment or series of shipments to the Arranging Broker, of the potential nature, type, and approximate amount of such damages.

8.2 All Other Claims. The parties shall notify each other of all known material details within 60 days of receiving notice of any claims other than freight loss or damage claims, and the parties shall update each other promptly as more information becomes available.

9.0 INSURANCE. As a condition to performing services under this agreement, the Arranging Broker shall procure and maintain, at its expense, the following insurance coverages from insurers with an A.M. Best rating of "A" or above:

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| 9.1 | General liability | \$1 million per occurrence, \$2 million aggregate; |
| 9.2 | Contingent auto liability | \$1 million per occurrence and aggregate; |
| 9.3 | Errors and omissions | \$100,000 per occurrence; and |
| 9.4 | Contingent cargo legal liability | \$100,000 per occurrence. |

To evidence the above coverages, the Arranging Broker shall provide certificates of insurance to the Tendering Broker that state that it is a certificate holder, copies of policy endorsements, where applicable, or copies of insurance policies and shall provide 30 days' prior written notice of cancellation, termination, or modification of any of the above policies. As a condition to the Tendering Broker's willingness to enter into this agreement, the Arranging Broker states that one or more of the above insurance coverages cover potential liabilities that the Arranging Broker has contractually assumed in this agreement. The Arranging Broker shall defend and indemnify the Tendering Broker from and against any loss, damage,

liability, claim, demand, action, proceeding, cost, or expense, including reasonable attorneys' fees, expenses of investigation, judgments, fines, or penalties that the Tendering Broker has paid or incurred, that arises out of or is in any way connected with the failure of any of the above insurers to cover any claim in its entirety. The Arranging Broker shall defend and indemnify the Tendering Broker from and against any loss, damage, liability, additional insurance premium, claim, demand, action, proceeding, cost, or expense, including reasonable attorneys' fees, expenses of investigation, judgments, fines, or penalties that the Tendering Broker has paid or incurred, that arises out of any motor carrier's failure to obtain workers' compensation insurance for any drivers, regardless of their classification as the motor carrier's employees or as independent contractors.

10.0 HAZARDOUS MATERIALS. The Tendering Broker and the Arranging Broker shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 C.F.R. §§ 172.800, 173, and 397, to the extent that any shipments constitute hazardous materials. The Tendering Broker is obligated to inform the Arranging Broker immediately if any such shipments constitute hazardous materials. The Tendering Broker shall defend and indemnify the Arranging Broker from and against any penalties or liabilities of any kind, including reasonable attorneys' fees, arising out of the Tendering Broker's failure to so notify the Arranging Broker.

11.0 DEFAULT. The parties will discuss any perceived deficiency in performance and will promptly attempt to resolve all disputes in good faith. But if either party were to materially fail to perform its duties under this agreement, then the other party may terminate this agreement on 10 days' written notice.

12.0 INDEMNIFICATION. Each party will defend and indemnify the other party from and against any damages, losses, fines, penalties, duties, taxes, interest, and expenses the other party pays or incurs, including reasonable attorneys' fees, arising out of or in any way connected with or caused by, in whole or in part, any claim, demand, action, or proceeding that a third-party may bring caused by or resulting from the indemnifying party's breach of this agreement or any other negligent or intentional act or omission by the indemnifying party, whether or not related to its performance of or exercise of rights under this agreement.

13.0 ASSIGNMENT/MODIFICATIONS OF AGREEMENT. Neither party may assign or transfer this agreement, in whole or in part, without the prior written consent of the other party. No amendment or modification of the terms of this agreement shall be binding unless in writing and signed by chief executive officers of both parties.

14.0 SEVERABILITY. If any provision of this agreement shall for any reason be held to be invalid or unenforceable, then the remainder of this agreement shall be unaffected and remain in effect.

15.0 INDEPENDENT CONTRACTORS. The parties understand and agree that neither is the agent of the other. Each party is and shall remain an independent contractor. Neither party exercises or retains any control or supervision over the other party, its operations, employees, or any motor carriers that such party contracts.

16.0 NON-WAIVER. A waiver of any right by either party will not constitute a waiver of such right on any subsequent occasion.

17.0 NOTICES. Any notice, demand, or request that this agreement requires or permits shall be in writing and the parties shall give such written notice by hand delivery or by a nationally recognized express transportation company. Notice shall be effective on the date of delivery by hand or, if by a nationally recognized express transportation company, then on the date of its delivery, according to that company's tracking number or data, as follows:

If to Kair:

Contact Name
250 W. Manville Street
Compton, CA 90221

If to XXX:

Contact Name
Address Line 1
Address Line 2

18.0 FORCE MAJEURE.

18.1 If a Force Majeure Event were to occur, then the party that is prevented by that Force Majeure Event from performing any one or more obligations under this agreement (the “Nonperforming Party”) will be excused from performing those obligations, on condition that it complies with its obligations under section 18.3.

18.2 “Force Majeure Event” means any event or circumstance, regardless of whether it was foreseeable, that prevents a party from performing any of its obligations under this agreement, other than an obligation to pay money, on condition that that party uses reasonable efforts to do so.

18.3 Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long that party expects it to last. The Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the Performing Party and to resume its performance under this agreement.

19.0 MANDATORY LAW, VENUE, AND JURISDICTION. All claims or disputes arising out of or in any way related to this agreement shall be determined under the federal law of the United States of America, without regard to its conflict of laws rules or, in the absence of such federal law, then under the laws of the State of California, without regard to its conflict of laws rules. Without prejudice to a party’s right to remove an action to federal court, the exclusive and mandatory venue for any such claims or disputes shall be the federal courts serving or the state courts in Los Angeles County, California, to the exclusion of all other courts. The parties agree to irrevocably submit to the personal jurisdiction of the above courts and to waive any jurisdictional, venue, or inconvenient forum objections to those courts.

20.0 CONFIDENTIALITY. Neither party shall use the other party’s name or identity in any advertising or promotional communications without the other party’s prior written consent nor shall the parties publicize, use, or disclose the contents or existence of this agreement except as necessary to perform this agreement.

21.0 NON-SOLICITATION. The Arranging Broker will not solicit traffic from any shipper, consignor, consignee, or customer of the Tendering Broker where (1) the availability of such traffic first became known to the Arranging Broker because of the Tendering Broker’s efforts, or (2) the traffic of the shipper, consignor, consignee, or customer of the Tendering Broker was first tendered to the Arranging Broker by the Tendering Broker. If the Arranging Broker breaches this agreement and directly or indirectly solicits traffic from customers of the Tendering Broker and obtains traffic from such customers during the term of this agreement or within 12 months of its termination, then the Arranging Broker shall be obligated to pay the Tendering Broker, for a period of 18 months after the Tendering Broker’s discovery of such breach, commission in the amount of 35 percent of the revenue resulting from traffic transported for such customer, and the Arranging Broker shall provide the Tendering Broker with all documentation requested by the Tendering Broker to verify such revenue.

22.0 ENTIRE AGREEMENT. This agreement is the parties’ final expression and entire agreement arising out of or in any way relating to its subject matter. This agreement states the parties’ entire understanding and it supersedes any contemporaneous and prior oral and written understandings and agreements that arise out of or are in any way related to the subject matter of the agreement. This

agreement shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors, and assigns of each party.

23.0 COUNTERPARTS. The parties may sign this agreement in counterparts, and each signed counterpart shall become part of the final agreement and shall have the same force and effect. A copy of any signature on a signature page, including, without limitation, a facsimile or scanned electronic copy, shall be as valid and binding as an original signature.

KAIR HARBOR EXPRESS LLC

XXX

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

PRINTED NAME

PRINTED NAME

TITLE

TITLE

DATE

DATE