

SOUTH CAROLINA STATE PORTS AUTHORITY

Chassis Interchange Agreement

Provider's Website: www.scsipa.com

This Chassis Interchange Agreement ("**Agreement**") is entered into by and between the **South Carolina State Ports Authority**, an instrumentality of the State of South Carolina, with its principal place of business at 200 Ports Authority Drive, Mount Pleasant, South Carolina 29464 ("**PROVIDER**") and _____, a limited liability company, corporation, partnership, or sole proprietorship organized under the laws of the State of _____, with its principal business address located at _____ ("**MOTOR CARRIER**").

BY SIGNING THIS AGREEMENT, MOTOR CARRIER SHALL BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, MOTOR CARRIER REPRESENTS AND WARRANTS TO PROVIDER THAT THE PERSON SIGNING THIS AGREEMENT HAS THE AUTHORITY TO BIND MOTOR CARRIER TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, MOTOR CARRIER REPRESENTS AND WARRANTS TO PROVIDER THAT MOTOR CARRIER IS A SIGNATORY TO AND IN GOOD STANDING WITH THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT, AS IT MAY CHANGE FROM TIME TO TIME ("**UIIA**"), AND THAT MOTOR CARRIER REPRESENTS AND WARRANTS TO PROVIDER THAT MOTOR CARRIER DOES NOT HAVE AN UNSATISFACTORY SAFETY RATING ISSUED BY A REGULATORY AGENCY WITH JURISDICTION OVER MOTOR CARRIERS OPERATIONS, INCLUDING BUT NOT LIMITED TO THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION ("**FMCSA**"). PLEASE NOTE THAT MOTOR CARRIER WILL NOT BE PROVIDED ANY SERVICES BY PROVIDER UNLESS AND UNTIL MOTOR CARRIER HAS AGREED TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF MOTOR CARRIER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, MOTOR CARRIER SHALL NOT SIGN THIS AGREEMENT. THE "EFFECTIVE DATE" FOR THIS AGREEMENT SHALL BE THE DAY THAT MOTOR CARRIER SIGNS THIS AGREEMENT.

1. **PURPOSE.** In consideration of, and subject to, the terms and conditions herein, PROVIDER hereby agrees to the interchange of PROVIDER's chassis ("**Chassis**") to MOTOR CARRIER. MOTOR CARRIER understands and agrees that this Agreement does not entitle MOTOR CARRIER to obtain any specific quantity or volume of Chassis from PROVIDER.

2. **TERM.** This Agreement shall commence on the Effective Date and continue for a period of one (1) year ("**Initial Term**"), whereby the term of this Agreement shall automatically extend on an annual basis ("**Extended Term**"), unless and until terminated in accordance with the provisions of this Agreement. The Initial Term and Extended Term are collectively referred to as the "**Term**" in this Agreement.

3. **PROVIDER.** The term "**PROVIDER**" shall include PROVIDER's officers, directors, members, employees, agents, any present or former officer, director, supervisor, parent, subsidiary, affiliated and/or successor corporation and/or any other entity that is a part of, related to, and/or associated with PROVIDER.

4. **CHASSIS ACCEPTANCE.** Prior to accepting delivery of a Chassis, MOTOR CARRIER shall conduct a pre-trip inspection that complies with the inspection requirements of the UIIA and MOTOR CARRIER'S obligations under applicable law. At the time of interchange, PROVIDER and MOTOR CARRIER or their agents shall execute an Equipment Interchange Receipt ("**EIR**") which shall describe the Chassis and all observable damage thereon. MOTOR CARRIER agrees to reject any Chassis if the items required to be inspected are not in good operating condition or not in compliance with applicable law. Any party who takes delivery of a Chassis on behalf of MOTOR CARRIER shall be deemed to have authority on behalf of MOTOR CARRIER to inspect and either accept or reject such Chassis. MOTOR CARRIER's inspection and acceptance of any Chassis shall (i) constitute conclusive evidence of receipt by MOTOR CARRIER of such Chassis for all purposes of this Agreement, and (ii) be deemed an acknowledgement that such Chassis is in good operating condition and that complies with all applicable laws to

the extent of the required inspection by MOTOR CARRIER. Upon MOTOR CARRIER's or MOTOR CARRIER's representative's inspection and acceptance of a Chassis, all terms and conditions of this Agreement shall apply to such Chassis.

5. **CHASSIS OWNERSHIP.** MOTOR CARRIER agrees that each Chassis is always, and remains the sole and exclusive property of PROVIDER, and MOTOR CARRIER shall acquire no ownership rights of any nature by virtue of paying daily usage charges, cost of repairs, or cost of transporting the Chassis. Each Chassis shall, where appropriate, have PROVIDER's serial numbers and other identifying marks affixed which shall not be obliterated or altered by MOTOR CARRIER. Registration and licensing fees for Chassis shall be paid by PROVIDER.

6. **CHASSIS USE.** MOTOR CARRIER shall have complete right of possession and use of the Chassis during the Term so long as no Event of Default (as defined in Section 18 below) has occurred. MOTOR CARRIER shall have the exclusive right to supervise, direct, and control the activities of all persons who are employed by or through MOTOR CARRIER or who otherwise operate or use the Chassis during the Term. No individual operating, in possession of, or using the Chassis on behalf of MOTOR CARRIER shall be considered an agent or employee of PROVIDER for any purpose whatsoever. MOTOR CARRIER understands and agrees that MOTOR CARRIER will not use the Chassis, and/or permit the chassis to be used, in any manner whatsoever in violation and/or contravention of any municipal, county, state, federal, and/or tribal law, ordinance and/or regulation, and MOTOR CARRIER shall use the Chassis only for the over-the-road transport or repositioning of intermodal shipping containers that move through the Port of Charleston. The MOTOR CARRIER is solely responsible for payment of any citations and/or tickets issued against the Chassis while in the MOTOR CARRIER's possession or control. MOTOR CARRIER shall maintain written or electronic logs of the location(s) where the Chassis goes and shall, upon PROVIDER's request, provide PROVIDER with these travel logs. Additionally, MOTOR CARRIER hereby acknowledges and agrees that each Chassis may contain equipment or devices offered by PROVIDER and/or its service providers ("SP") that automatically track the location of each Chassis and send the location of each Chassis to PROVIDER and/or its SP. Furthermore, MOTOR CARRIER (on its behalf and on behalf of its employees, drivers, directors, agents, sub-contractors, and affiliates) agrees that PROVIDER and its SPs may collect, use, process, transmit, disclose, and store data for the purposes set out in this Agreement and in their respective privacy policies.

7. **CHASSIS USAGE CHARGES; OTHER CHARGES; LIMITED DAMAGE WAIVER PROGRAM; BILLING.**

a. MOTOR CARRIER shall pay PROVIDER, as a daily usage charge, an amount per calendar day until and inclusive of the day MOTOR CARRIER returns the Chassis to PROVIDER (the "Use Fee") at one of PROVIDER's depots listed on PROVIDER's website located at www.scspace.com. PROVIDER's Schedule of Rates, including those used to determine the Use Fee, the Daily Limited Damage Waiver Fee under PROVIDER's Limited Damage Waiver Program, and administrative fees, shall be posted on PROVIDER's website located at www.scspace.com. PROVIDER may modify the Use Fee and other rates and fees from time to time, provided that, any modifications shall be posted on such website at least thirty (30) days before the modified rates take effect. Accordingly, MOTOR CARRIER shall review the website located at www.scspace.com from time to time. MOTOR CARRIER understands and agrees that any part of a day constitutes a full day's usage and MOTOR CARRIER will be charged a full daily Use Fee. MOTOR CARRIER shall be responsible for and shall pay all tolls, liens, and taxes in accordance with Section 16 of this Agreement.

b. In consideration of MOTOR CARRIER paying PROVIDER the Limited Damage Waiver Fee, PROVIDER will waive up to a maximum of \$1,000 in certain damages to the rented Chassis ("Covered Damages"). Covered Damages shall not include the list of Excluded Damages posted on PROVIDER's website located at www.scspace.com ("Excluded Damages List"). The aforementioned limited damage waiver shall only apply to Covered Damages incurred to the Chassis on the day the Chassis was rented under this Agreement and only for Chassis that was used in strict conformance with the terms and conditions of this Agreement ("Limited Damage Waiver Program"). Covered Damages do not include items not contained in PROVIDER's Excluded Damages List, any GPS equipment, theft of Chassis, Chassis parts, or SCPA branded tires, or any damage to Chassis, Chassis

parts, or SCPA branded tires caused by the intentional neglect, gross negligence, or willful misconduct of MOTOR CARRIER. Participation by MOTOR CARRIER in the Limited Damage Waiver Program is optional. **Please note that MOTOR CARRIER shall automatically be enrolled in PROVIDER's Limited Damage Waiver Program unless the Limited Damage Waiver Program is declined by MOTOR CARRIER upon entering into this Agreement. The MOTOR CARRIER in possession of the Chassis per last PROVIDER interchange will be invoiced the Limited Damage Waiver Program Fee and any associated tax, even if another party is paying for the Chassis usage.**

c. MOTOR CARRIER shall be responsible for any and all damages not covered by the Limited Damage Waiver Program. PROVIDER shall charge MOTOR CARRIER and MOTOR CARRIER shall pay PROVIDER an administrative fee to process invoices for damage to Chassis not covered by the Limited Damage Waiver Program that is equal to twenty-five dollars (\$25) per such invoice ("**Damage Administrative Fees**"). MOTOR CARRIER agrees that PROVIDER shall invoice MOTOR CARRIER directly for Damage Administrative Fees and it is MOTOR CARRIER's responsibility to pay all Damage Administrative Fees within thirty (30) days of invoicing.

d. PROVIDER will bill MOTOR CARRIER in semi-monthly segments until the Chassis is returned, at which point PROVIDER will bill MOTOR CARRIER for any unbilled usage days. The above occurrences where PROVIDER will bill MOTOR CARRIER shall hereinafter be referred to as a "**Billing Event.**"

e. MOTOR CARRIER shall make all payments via ACH, wire transfer, or credit card within thirty (30) days of the invoice date. Amounts outstanding after thirty (30) days will be considered delinquent and shall be subject to interest charges at a rate of 1% per month or 12% per annum.

f. From time to time, PROVIDER, upon request of an ocean carrier/steamship line, may bill an ocean carrier/steamship line instead of billing MOTOR CARRIER.

g. PROVIDER'S BILLING SYSTEM located at www.scspace.com includes a process for MOTOR CARRIER to dispute charges. MOTOR CARRIER shall notify PROVIDER of any disputed items and/or charges within fifteen (15) days following the invoice date. MOTOR CARRIER shall include documentation of disputed activity (such as gate receipts or interchange reports) with its notification of disputed items and/or charges. PROVIDER will undertake to reconcile timely disputed items within fifteen (15) days of receipt of MOTOR CARRIER's notice and will either provide verification for the charges as billed or will issue a credit to MOTOR CARRIER's account for any amount not properly invoiced. Such disputes do not constitute valid grounds for withholding or delaying payments of disputed charges as required by the terms of this Agreement. All disputes arising from or related to this Agreement shall be submitted to mediation in Charleston County, South Carolina. Such mediation shall be a condition precedent to filing suit. The parties reserve their rights and remedies under the law regarding disputes not resolved by mediation. The requirement of mediation shall not apply to undisputed amounts owed to PROVIDER by MOTOR CARRIER, and PROVIDER may file suit in state or federal courts to collect such undisputed amounts.

8. **RETURN OF CHASSIS.** MOTOR CARRIER shall at its sole cost and expense return Chassis only to (i) the Start/Stop location where MOTOR CARRIER received the Chassis, or (ii) one of the authorized Start/Stop locations specified by PROVIDER on PROVIDER's website. From time to time, however, PROVIDER may restrict MOTOR CARRIER'S right to return Chassis to any of PROVIDER'S Start/Stop locations. When Start/Stop locations are restricted pursuant to this Section, PROVIDER will post the restriction on its website and notify the MOTOR CARRIER by e-mail not later than 4:00 p.m. Eastern Time the business day prior to the effective date of the restrictions on the Start/Stop location(s). If MOTOR CARRIER redelivers Chassis to PROVIDER at a location other than a permitted location without prior written approval from PROVIDER, then MOTOR CARRIER shall pay PROVIDER its costs to dray the Chassis to a permitted location. Notwithstanding anything herein to the contrary, Chassis shall remain in use and on-hire, and MOTOR CARRIER shall continue to pay PROVIDER for daily use of the Chassis, until the Chassis is returned to PROVIDER in accordance with this Section 8 of the Agreement; additionally, MOTOR CARRIER shall pay for all costs associated with the return of Chassis to PROVIDER'S authorized Start/Stop locations.

9. **MANAGEMENT SERVICE.** MOTOR CARRIER understands that PROVIDER will utilize online management applications located at www.scsipa.com (the "Service") to bill for Use Fees and to manage events arising under this Agreement. MOTOR CARRIER agrees to the following terms and conditions relating to the Service:

a. MOTOR CARRIER agrees not to: (i) use any device, software or technique to interfere with or attempt to interfere with the Service, or interfere with any other party's use and enjoyment of the Service's website; (ii) attempt by any means to gain unauthorized access to the Service, including, but not limited to, access through other accounts not legally registered to MOTOR CARRIER; (iii) pass User IDs or passwords to any third party without written consent from PROVIDER; (iv) use any robot, spider or other automatic device, process or means to access the Service, or use any manual process to monitor or copy content from the Service website for any other unauthorized purpose without PROVIDER'S prior express written permission; or (v) engage in any activity that could be construed to constitute unsolicited or unauthorized advertising or promotional materials.

b. MOTOR CARRIER agrees not to post, upload or otherwise transmit: (i) any data that is unlawful, harmful or otherwise objectionable or violates any governmental agency, local, state, national or foreign laws; (ii) any data that MOTOR CARRIER does not have a right to transmit under any law or under contractual or fiduciary relationships; (iii) any data that infringes any patent, trademark, trade secret, copyright or other proprietary, publicity or privacy rights of any party; (iv) any data that contains viruses, bugs, Trojan horses, or any other harmful or deleterious programs; (v) any data which is defamatory in any way or of an obscene nature.

c. MOTOR CARRIER shall not: (i) disassemble, reverse engineer, decompile or otherwise attempt to derive source code from the Service; (ii) modify, adapt, create derivative works based upon, or translate the Service or any part thereof; (iii) copy, install or use any components of the Service on any of its computer systems, servers or networks; (iv) transfer, lease, loan, resell for profit, distribute or otherwise grant any rights in or access the Service in any form to any other party. MOTOR CARRIER shall indemnify, defend, and hold PROVIDER harmless from, any act or omission of MOTOR CARRIER or anyone accessing the Service on MOTOR CARRIER's behalf in any way related to the Service. MOTOR CARRIER waives all those defenses that MOTOR CARRIER may have as to why MOTOR CARRIER should not be liable for the acts or omissions of anyone accessing the Service on MOTOR CARRIER's behalf.

d. PROVIDER SHALL NOT BE LIABLE FOR CORRUPTION, UNAUTHORIZED DISCLOSURE OR ERASURE OF DATA TRANSMITTED OR RECEIVED OR STORED ON THE PROVIDER'S SYSTEM. PROVIDER WILL NOT BE LIABLE TO MOTOR CARRIER FOR ANY CLAIMS OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSSES OR DAMAGES RESULTING FROM THE LOSS OF DATA, INABILITY TO ACCESS THE SERVICE, OR INABILITY TO TRANSMIT OR RECEIVE DATA, CAUSED BY OR RESULTING FROM DELAYS, NON-DELIVERY, OR SERVICE INTERRUPTIONS DUE TO CIRCUMSTANCES NOT IN THE DIRECT CONTROL OF THE PARTIES SUCH AS, BUT NOT LIMITED TO, SUPPLIER PROBLEMS, MOTOR CARRIER'S EQUIPMENT CAPABILITIES, TELECOMMUNICATIONS FAILURES, OR INTERNET SERVICE PROVIDER LIMITATIONS.

e. PROVIDER SHALL NOT BE LIABLE TO MOTOR CARRIER, OR TO ANY THIRD PARTY, FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR RELATING TO THE ABOVE MENTIONED SERVICES.

f. UNDER NO CIRCUMSTANCES SHALL PROVIDER'S LIABILITY TO THE MOTOR CARRIER OR TO ANY THIRD PARTY ARISING OUT OF OR RELATED TO THE ABOVE MENTIONED SERVICES EXCEED TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000).

10. **INSURANCE.** MOTOR CARRIER shall have in effect and shall obtain and maintain, at MOTOR

CARRIER's sole cost and expense, throughout the Term of this Agreement, and for a period of three (3) years after the expiration or earlier termination of this Agreement, the following insurance coverage:

- a. Commercial automobile and property damage insurance policy with per occurrence limits of not less than \$1,000,000.00 or greater insuring the Chassis provided to MOTOR CARRIER under this Agreement. The policy must cover User's indemnity obligations under this Agreement. The policy must be marked as either "ANY AUTO" or "SCHEDULED AND HIRED." The policy may **NOT** be marked "SCHEDULED ONLY" or "ALL OWNED AUTOS."
- b. All risk, loss, and damage insurance (including mysterious disappearance, unexplained loss or war risks and strikes, riots, and civil commotions risks) while in transit or at rest, in an amount equal to the replacement value of all Chassis interchanged to the MOTOR CARRIER hereunder with limits of not less than \$30,000.
- c. Commercial general liability insurance, including contractual liability and broad form property damage, with a combined single limit of not less than \$1,000,000 per occurrence or greater, of which no portion can be self-insured.
- d. General liability and automobile insurance in an amount not less than \$5,000,000 combined single limit for the carriage of hazardous materials that are transported by MOTOR CARRIER utilizing the Chassis.
- e. Worker's Compensation and employer's liability insurance, or similar type of coverage, required to satisfy all statutory requirements in any state or country where Chassis are possessed, such policies waiving any subrogation rights against PROVIDER.

The insurance set forth in this Section shall (i) be primary to and non-contributing with any other applicable insurance and waive subrogation, (ii) name as an additional insured the PROVIDER, its manager, and maintenance contractors, as well as the providers, lessors, and owners of Chassis in the PROVIDER's Chassis pool, (iii) include a direct loss payee clause in favor of PROVIDER providing that upon PROVIDER's giving notice to the insurer that, notwithstanding the expiration or cancellation of such insurance, it shall, insofar as the interest of PROVIDER is concerned, remain in full force and effect for thirty (30) days after written notice of such expiration or cancellation from the insurer to PROVIDER and (iv) be underwritten with a company acceptable to PROVIDER in its reasonable discretion. MOTOR CARRIER hereby assigns to PROVIDER all its present and future right, title, and interest in and to all insurance proceeds now and hereafter payable to MOTOR CARRIER with respect to damage to or loss of the Chassis, including without limitation, any recovery costs, and expenses.

Prior to taking possession of any Chassis, MOTOR CARRIER shall furnish to PROVIDER written certificates obtained from the insurance carrier(s) showing that such insurance, has been procured, is being properly maintained. The certificates shall contain the expiration date and specify that written notice of cancellation or modification or material alteration (e.g., coverage reduced, limit decreased, or additional insured removed) of the policies shall be given to PROVIDER at least thirty (30) days prior to cancellation or modification or material alteration. PROVIDER shall be under no duty to either ascertain the existence of or to examine any such insurance policy or to advise MOTOR CARRIER in the event such insurance coverage does not comply with the requirements of this Agreement.

During the Term or while the Chassis is still under the possession or control of MOTOR CARRIER, upon request from PROVIDER, MOTOR CARRIER shall provide PROVIDER with copies of the applicable insurance policies. If MOTOR CARRIER fails to provide such proof, PROVIDER may obtain separate insurance on behalf of MOTOR CARRIER and charge the amount of any cost to MOTOR CARRIER as additional usage charges. Notwithstanding the foregoing, the maintenance of insurance by PROVIDER shall not be deemed or construed to limit or modify the MOTOR CARRIER's obligations hereunder. At all times during the Term of this Agreement, MOTOR CARRIER shall comply with PROVIDER's annual business registration program.

11. **LOSS, THEFT, DESTRUCTION OR DAMAGE OF CHASSIS.**

- a. MOTOR CARRIER will not make or permit any unlawful use or handling of the Chassis. MOTOR

CARRIER will comply with all loading limitations prescribed by the manufacturer of the Chassis and will prevent excessive impact and concentrated loads. All Chassis shall have SCPA branded tires when interchanged to MOTOR CARRIER and MOTOR CARRIER shall return the Chassis with SCPA branded tires, unless SCPA receives a written record of repair or replacement of tires from MOTOR CARRIER within five (5) business days of said repair or replacement. MOTOR CARRIER will not, without SCPA's prior written consent, make or permit any changes, alterations, or improvements in or to the Chassis or remove therefrom any parts, accessories, SCPA branded tires, or attachments. Chassis returned with parts, accessories, SCPA branded tires, or attachments missing will continue to be considered as rented Chassis and MOTOR CARRIER shall pay the Use Fee and Limited Damage Waiver Fee (if applicable) pursuant to Section 7 of this Agreement until the missing items are returned or replacement cost is paid or if changes were made to the Chassis, until the Chassis has been restored to its condition at time of receipt by MOTOR CARRIER.

b. MOTOR CARRIER shall return each Chassis in the same condition as received by MOTOR CARRIER, normal wear and tear excepted. Except for any Covered Damages items covered by PROVIDER's Limited Damage Liability Program (applicable only if MOTOR CARRIER is enrolled in PROVIDER's Limited Damage Liability Program), MOTOR CARRIER shall be responsible for repairing all damage (including without limitation, repairing, or replacing any component part of a Chassis) occurring to a Chassis while such Chassis is in possession of the MOTOR CARRIER. If damage is discovered upon return of the Chassis to PROVIDER, MOTOR CARRIER will pay the cost of repairs incurred by the PROVIDER. If repairs are required while the Chassis is in the possession of the MOTOR CARRIER, the MOTOR CARRIER shall repair damage to the Chassis in accordance with PROVIDER's over-the-road repair procedures and requirements for return of damaged Chassis posted on PROVIDER's website. Materials used to complete the repairs must be of similar or better quality and type as material removed. If MOTOR CARRIER makes any repairs on the Chassis, MOTOR CARRIER shall be responsible for the cost of such repairs, normal wear and tear excepted. Repairs, when completed, are subject to acceptance by PROVIDER. If MOTOR CARRIER fails to repair damage or, in PROVIDER's discretion, makes improper repairs, the MOTOR CARRIER shall pay PROVIDER for the reasonable cost to repair or replace the Chassis.

c. If any Chassis is lost, destroyed, confiscated, damaged beyond repair (as determined by PROVIDER in its sole discretion) or stolen, MOTOR CARRIER agrees to pay PROVIDER for the depreciated replacement value as determined by PROVIDER in its reasonable discretion ("**Replacement Value**") for said Chassis as of the date it was lost, destroyed, confiscated, damaged beyond repair, or stolen.

d. MOTOR CARRIER must notify PROVIDER of the loss, theft, confiscation, or destruction of Chassis by telephone within twenty-four (24) hours of such damage or the discovery of loss or theft, and MOTOR CARRIER must give PROVIDER written notification within five (5) days thereafter. PROVIDER will provide the MOTOR CARRIER with instructions for the disposition of the destroyed Chassis. Unless PROVIDER directs otherwise, MOTOR CARRIER is responsible for returning all Chassis equipment, and the costs thereof, and MOTOR CARRIER shall protect the Chassis from any further damage.

e. MOTOR CARRIER's obligation to pay usage charges with respect to such Chassis in accordance with Section 7 (and to pay and other charges which may be due under this Agreement) shall continue until the day on which PROVIDER receives from the MOTOR CARRIER the Full Settlement (as defined below) with respect to such Chassis. For purposes hereof, the "**Full Settlement**" shall mean (i) proof, in such form as may be acceptable to PROVIDER, of such loss, destruction, confiscation, damage or theft, (ii) payment of the Replacement Value for such Chassis as determined by PROVIDER from time to time, and (iii) payment of all other amounts then due and payable under this Agreement with respect to such Chassis.

12. **LIMITATION OF LIABILITY.** PROVIDER shall not be liable to MOTOR CARRIER or any other person for any failure or delay in the performance of any obligation due to events beyond PROVIDER's reasonable control including, but not limited to, fire, storm, flood, earthquake, explosion, accidents, acts of the public enemy,

sabotage, riots, civil disorder, strikes, lockouts, labor disputes, labor shortages, work stoppages, transportation embargoes or delays, failure or shortage of materials, supplies or equipment, failure of suppliers to deliver as requested, failure of repair facilities to finish repairs, acts of God, and acts of regulations or priorities of any government or its branches or agencies. PROVIDER SHALL NOT BE LIABLE TO MOTOR CARRIER, OR TO ANY THIRD PARTY, AND MOTOR CARRIER HEREBY WAIVES ANY CLAIM AGAINST PROVIDER, FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES OR DELAYS TO CARGO, WHETHER FORESEEABLE OR UNFORESEEABLE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR RELATING TO THIS AGREEMENT. UNDER NO CIRCUMSTANCES SHALL PROVIDER'S LIABILITY TO THE MOTOR CARRIER, OR TO ANY THIRD PARTY, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED THE LIABILITY CAPS OF GOVERNMENT ENTITIES PROVIDED IN SECTION 15-78-120 OF THE SOUTH CAROLINA CODE OF LAWS; AND, THIS LIMITATION OF LIABILITY SHALL APPLY EVEN IF THE CLAIM IS NOT OTHERWISE SUBJECT TO THE SOUTH CAROLINA TORT CLAIMS ACT.

13. **INDEMNIFICATION.** MOTOR CARRIER shall defend, indemnify, and hold harmless PROVIDER, PROVIDER's maintenance contractor, the owners and lessors of the Chassis, and each's insurers, affiliates, managers, officers, directors, agents, employees, representatives, successors, and assigns (individually and collectively "**PROVIDER Party**") from and against any and all direct and third-party suits, losses, fines, penalties, damages, claims, injuries including death, damage to property, damage to or loss of any Chassis, other demands and liabilities of every nature, including reasonable attorney's fees, arising directly or indirectly from or in connection with MOTOR CARRIER's possession, use, condition, or operation of the Chassis, including actions or claims for negligence or strict liability in tort, with the exception of any liability for that portion of loss or damage resulting from the negligence or intentional acts or omissions of PROVIDER or its employees. PROVIDER and PROVIDER Party do not assume liability for any acts or omissions of MOTOR CARRIER or its agents, representatives, contractors, subcontractors, or employees. MOTOR CARRIER shall be responsible for and shall pay all fines or citations arising out of its acts or omissions related to the Chassis during the Term. If applicable state law does not allow enforcement of indemnity obligations to the extent contained in this Section, the parties expressly agree that MOTOR CARRIER will be obligated to indemnify, defend, and hold harmless the PROVIDER and the PROVIDER Party to the fullest extent allowed by applicable law. For the purposes of this Section 13, the term "Chassis" shall include the chassis, any intermodal shipping containers or cargo or equipment transported by the chassis, and any cargo, property, or contents inside any intermodal shipping containers transported by the chassis.

14. **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS, OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY INTERMODAL CHASSIS, EXCEPT THAT PROVIDER REPRESENTS THAT, AT THE TIME OF ANY DELIVERY TO MOTOR CARRIER HEREUNDER, PROVIDER HAS TITLE OR RIGHT OF POSSESSION AND USE OF THE RELEVANT CHASSIS. BY EXECUTING A CHASSIS INSPECTION REPORT AND/OR ACCEPTING A CHASSIS, MOTOR CARRIER ACCEPTS EACH CHASSIS "AS IS" AND EXPRESSLY DISCLAIMS ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY PROVIDER OR ANY PERSONS ON PROVIDER'S BEHALF.

15. **COMPLIANCE WITH LAW.** MOTOR CARRIER understands and agrees to obey and comply with all applicable federal, state and local laws, rules, regulations, and ordinances, collectively hereinafter referred to as "**Applicable law**", including but not limited to, law pertaining to the inspection and operation of Chassis, loading limitations, if any, prescribed by the manufacturers of the Chassis, prevent excessive impact of unbalanced or concentrated loads and pay all fines, expenses, charges or assessments which may arise out of MOTOR CARRIER's improper use of Chassis. MOTOR CARRIER shall ensure that during the Term, MOTOR CARRIER and the Chassis are in compliance with Applicable Law and shall promptly notify PROVIDER of any damage or other condition of Chassis, which fails to comply with Applicable Law. MOTOR CARRIER shall be responsible for, and shall pay, all fines, penalties, citations, or other amounts assessed against MOTOR CARRIER or PROVIDER by

local, state, federal, and/or tribal authorities for the condition or use of any Chassis while in the MOTOR CARRIER's possession and control. MOTOR CARRIER shall promptly notify PROVIDER of any citation, ticket, non-compliance letter, and/or non-compliance warning related to any Chassis issued to MOTOR CARRIER during the Term. MOTOR CARRIER shall provide proof of payment made by MOTOR CARRIER for all fines, expenses, charges and/or assessments made against the Chassis. Should the Chassis in any manner be involved in an accident or collision, MOTOR CARRIER shall immediately notify PROVIDER in writing describing the location and nature of the accident, the parties to the accident, and information related to the parties' insurance.

16. **LIENS, TOLLS, & TAXES.**

- a. MOTOR CARRIER shall not mortgage, encumber and/or transfer the Chassis in whole or in part. MOTOR CARRIER shall keep the Chassis free and clear of all levies, liens, and encumbrances and shall pay all tolls and all taxes (including sales and use taxes; in this regard, any applicable sales, use, or rental tax will appear separately on the invoice), assessments and similar charges, including any governmental fees and charges (with the exception of registration and licensing fees for the Chassis which shall be paid by PROVIDER) on the use, transportation, repair and/or operation of the Chassis in its possession under this Agreement. MOTOR CARRIER's failure in this regard will be a material breach under this Agreement requiring MOTOR CARRIER to immediately return the Chassis to PROVIDER and remit payment of all outstanding Use Fees to PROVIDER. Use Fees also include outstanding fees for levies, liens, encumbrances, taxes (including sales, use, and/or rent taxes), assessments, governmental fees and charges on the use, transportation, repair and/or operation of the Chassis while the Chassis was in MOTOR CARRIER's possession or control.
- b. MOTOR CARRIER acknowledges and agrees that under the terms of this Agreement and all other agreements or amendments the parties hereto enter, MOTOR CARRIER is contractually obligated to pay all toll payments and violations and all traffic violations and tickets and fines resulting from the use, condition, possession, or operation of the Chassis by MOTOR CARRIER or any of its customers, contractors, subcontractors, agents, or representatives (individually and collectively "**Toll Charges**"). PROVIDER, in its sole discretion, may engage a third-party vendor to manage the processing of these Toll Charges ("**Toll Service Provider**") and may enroll the Chassis with such Toll Service Provider. PROVIDER shall charge MOTOR CARRIER and MOTOR CARRIER shall pay PROVIDER an administrative fee to process such Toll Charges for any Toll Charges that are paid on behalf of MOTOR CARRIER that is equal to twenty-five dollars (\$25) per such invoice ("**Toll Administrative Fees**"). MOTOR CARRIER agrees that PROVIDER, or its Toll Service Provider, shall invoice MOTOR CARRIER directly for Toll Charges and Toll Administrative Fees and it is MOTOR CARRIER's responsibility to pay all Toll Charges and Toll Administrative Fees within thirty (30) days of invoicing. PROVIDER hereby reserves the right to collect reimbursement for the Toll Charges, plus all Toll Administrative Fees, from MOTOR CARRIER if PROVIDER pays such amounts on behalf of MOTOR CARRIER. MOTOR CARRIER understands and agrees that a result of this process may be the potential loss of MOTOR CARRIER's ability to contest the Toll Charges. MOTOR CARRIER grants PROVIDER and its Toll Service Provider the right and authority to communicate with all enrolled toll authorities as designated agent for the MOTOR CARRIER regarding toll processing and if the enrolled toll authority requires written authorization from MOTOR CARRIER naming Toll Service Provider as designated agent, the MOTOR CARRIER will provide such a permission letter within no more than five (5) business days after request.
- c. MOTOR CARRIER is authorized to and agrees to provide to Toll Service Provider any information that may be required by Toll Service Provider, for the sole purpose of collecting Toll Charges and Toll Administrative Fees. Toll Service Provider (including its affiliates or agents) is authorized to contact MOTOR CARRIER regarding Toll Charges and Toll Administrative Fees to the same extent that PROVIDER is authorized to communicate with MOTOR CARRIER. MOTOR CARRIER agrees to execute and deliver to Toll Service Provider such documents as may be necessary for Toll Service Provider to establish MOTOR

CARRIER in Toll Service Provider's systems for purposes of issuance of invoices. MOTOR CARRIER agrees to defend at its sole expense and indemnify and hold harmless PROVIDER and Toll Service Provider for all Toll Charges and Toll Administrative Fees that MOTOR CARRIER incurs.

17. **SUB-LEASE OF CHASSIS.** MOTOR CARRIER shall not sublet and/or in any other manner permit the Chassis to go out of its possession without the prior written consent of PROVIDER. In the event the Chassis is sublet by the MOTOR CARRIER, with or without the prior written consent of PROVIDER, or otherwise comes into the possession of a third party other than the MOTOR CARRIER, MOTOR CARRIER shall be fully liable and solely responsible to PROVIDER for the performance of all terms and conditions of this Agreement.

18. **DEFAULT.** Any of the following shall be deemed an Event of Default:

- a. MOTOR CARRIER fails to pay any amount due hereunder within thirty (30) days of its due date.
- b. MOTOR CARRIER allows its insurance to lapse at any time during the Term.
- c. MOTOR CARRIER fails to maintain a satisfactory safety rating issued by any regulatory authority with jurisdiction over MOTOR CARRIER's operations including, without limitation, the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation.
- d. MOTOR CARRIER becomes insolvent or seeks relief or protection under any law relating to bankruptcy.
- e. MOTOR CARRIER assigns the Chassis to the benefit of any MOTOR CARRIER creditor.
- f. MOTOR CARRIER takes part in the taking of the Chassis, because of foreclosure, levy, execution, attachment, or other process of law and/or equity enforced against MOTOR CARRIER.
- g. if, in PROVIDER's reasonable opinion, MOTOR CARRIER neglects, abuses, and/or misuses the Chassis in any way; or
- h. MOTOR CARRIER fails to observe any other term or condition of this Agreement.

Upon the occurrence of an Event of Default, PROVIDER may, at its sole discretion, and in addition to any other remedy or right it has hereunder or by law: (a) immediately terminate this Agreement by providing notice to MOTOR CARRIER; (b) terminate MOTOR CARRIER's right to possession of the Chassis; (c) require MOTOR CARRIER to make available or deliver any Chassis to PROVIDER at such location as PROVIDER may designate; (d) enter upon any premises where any Chassis is located, and without notice or demand, remove such Chassis, whether with or without process of law; (e) refuse MOTOR CARRIER access to terminal facility(ies) and or access to Chassis; (f) terminate MOTOR CARRIER's right to the use of Chassis; and (g) demand payment of all amounts due and payable and to become due and payable hereunder, including any Use Fees or other fees as such amounts shall become immediately due and payable. MOTOR CARRIER shall pay PROVIDER any reasonable attorney's fees and expenses PROVIDER incurs in enforcing its rights hereunder. MOTOR CARRIER shall pay PROVIDER all costs and expenses associated with such recovery of possession. The remedies set forth herein shall be cumulative and nothing herein shall restrict PROVIDER, in its sole discretion, to pursue any number of such remedies. No action taken or not taken, by PROVIDER under this Section with respect to a default by MOTOR CARRIER under this Agreement shall impair in any way any other rights or remedies that PROVIDER may have under this Agreement or Applicable Law. Waiver of any default shall not be a waiver of any other or subsequent default or other condition or term of this Agreement.

19. **ASSIGNMENT.** MOTOR CARRIER shall not assign (whether directly, indirectly, by operation of law or otherwise) this Agreement or assign, sublet, delegate, or transfer any Chassis or any portion thereof without, in each instance, the prior written consent of PROVIDER; any such assignment, subletting, delegation, or transfer by MOTOR CARRIER shall be null and void. PROVIDER may assign this Agreement without the consent of MOTOR CARRIER and, after such assignment, upon notice to MOTOR CARRIER; PROVIDER shall be released from all obligations under this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the

parties to this Agreement and their respective successors and permitted assigns.

20. **NOTICES.** Notices may be transmitted electronically, by registered or certified mail, or nationally recognized overnight courier which requires a receipt. The notice address for MOTOR CARRIER shall be the address provided by MOTOR CARRIER during registration. The notice address for PROVIDER shall be:

SOUTH CAROLINA STATE PORTS AUTHORITY
Attn: James Caudill, Director - Chassis Pool
200 Ports Authority Drive
Mt. Pleasant, SC 29464
Telephone: 843-577-1318
Email: jcaudill@scspa.com
With copy to:

SOUTH CAROLINA STATE PORTS AUTHORITY
Attn: General Counsel
200 Ports Authority Drive
Mt. Pleasant, SC 29464
Telephone: 843-577-8786
Email: rlowell@scspa.com

The notice addresses for either party may be changed to such other address as either party shall give to the other party in the manner provided herein for giving notice. Notice by mail shall be considered given three (3) days after deposit with the courier. Notice delivered personally or by e-mail shall be considered given at the time it is delivered or sent electronically.

21. **TERMINATION.** Notwithstanding anything in this Agreement to the contrary, either party may terminate this Agreement, for any reason or no reason at all, upon forty-eight (48) hours prior written notice to the other party. In the event of termination, the terms of this Agreement shall remain in effect with respect to all unreturned Chassis. Any termination of this Agreement shall be without prejudice to all rights accrued between the parties prior to the date of termination. Upon termination MOTOR CARRIER shall promptly return all Chassis in its possession or subject to this Agreement to the location agreed to herein, or in the event of termination due to MOTOR CARRIER's default, and notwithstanding anything to the contrary in Section 18, to the location(s) designated by PROVIDER.

22. **SURVIVABILITY.** Notwithstanding the termination of this Agreement, the terms and conditions of this Agreement shall remain in full force and effect until all Chassis are redelivered to PROVIDER in accordance with the terms and conditions hereof and until MOTOR CARRIER and/or PROVIDER satisfies its obligations (including, without limitation, payment) in full under this Agreement. Without limiting the foregoing, Sections 7, 11, 12, 13, 14, 16, 19, 20, 22, 23, 28, and 29 shall survive the termination of this Agreement.

23. **APPLICABLE LAW; CONSENT TO JURISDICTION.** This Agreement, all provisions hereof, and all matters arising out of or relating to this Agreement shall be governed by the laws of the State of South Carolina, without regard to its choice of law or conflict of law principles, and this Agreement shall be deemed made in South Carolina. MOTOR CARRIER and PROVIDER agree that jurisdiction and venue for all disputes, litigation, and claims between the parties based on or arising out of this Agreement shall be the state courts of the State of South Carolina located in Charleston County, South Carolina. MOTOR CARRIER hereby consents to be subject to the personal jurisdiction in said jurisdiction and venue.

24. **AMENDMENT.** PROVIDER shall have the right, from time to time, to unilaterally amend this Agreement upon thirty (30) days prior written notice to MOTOR CARRIER. The amendment(s) shall be effective on the effective date of the amendment(s) stated in the amendment itself. MOTOR CARRIER shall be bound by all provisions of such amendment(s) to this Agreement. If MOTOR CARRIER does not agree to the provisions of such amendment(s), MOTOR CARRIER may terminate this Agreement upon written notice to PROVIDER. MOTOR CARRIER's taking of possession of a Chassis or keeping possession of a Chassis after the effective date of any such amendment(s) shall constitute MOTOR CARRIER's acceptance of such amendment(s). Notwithstanding anything herein to the contrary, PROVIDER, in its sole and absolute discretion, may unilaterally modify the Use Fee and

other rates and fees of this Agreement in accordance with Section 7 of this Agreement.

25. **MISCELLANEOUS.**

a. TIME IS MATERIAL AND OF THE ESSENCE WITH RESPECT TO PERFORMANCE OF ALL OBLIGATIONS OF MOTOR CARRIER IN THIS AGREEMENT.

b. This Agreement constitutes the entire agreement between PROVIDER and MOTOR CARRIER, and supersedes all prior discussions, negotiations, and agreements, whether written or oral. No amendment, alteration or withdrawal of this Agreement shall be valid or binding unless made according to the process stated above. This Agreement shall be binding on the heirs, successors, and assignees of the parties.

c. If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present law or becomes so under future law, the remaining portions of the Agreement shall continue in effect and the parties shall adopt or substitute provisions as closely as legally permissible to the illegal, invalid, or unenforceable provisions.

26. **APPLICATION OF THIS AGREEMENT.**

a. This Agreement applies when a MOTOR CARRIER obtains or uses a Chassis from PROVIDER for any purpose.

b. From time to time, ocean carrier/steamship lines will direct PROVIDER to bill the ocean carrier/steamship line for MOTOR CARRIER'S usage of Chassis under this Agreement. PROVIDER agrees to do so; however, MOTOR CARRIER acknowledges and agrees that in such cases, this Agreement shall apply in all other respects.

27. **DRAYAGE AT PROVIDER'S REQUEST.** If PROVIDER hires MOTOR CARRIER to dray Chassis for repositioning or other purpose, this Agreement shall apply to that drayage, except for Section 7 hereof. PROVIDER shall pay MOTOR CARRIER the rate agreed between MOTOR CARRIER and PROVIDER for such drayage.

28. **ELECTRONIC SIGNATURES.** MOTOR CARRIER and PROVIDER agree that the Electronic Signatures (as defined below) of MOTOR CARRIER and PROVIDER, whether digital or encrypted, are intended to authenticate this Agreement and shall have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including but not limited to facsimile or email electronic signatures or DocuSign signatures or something similar ("Electronic Signatures").

29. **PROVIDER'S MARINE TERMINAL OPERATOR SCHEDULE.** Please note that all visitors and users of PROVIDER'S marine terminals, inland port terminals, facilities, and equipment, including but not limited to Chassis, are subject to the rules and regulations contained in PROVIDER'S applicable current Marine Terminal Operator Schedule, as may be amended from time to time, or its successor ("MTOS"). The terms of the MTOS can be found on PROVIDER's web site at <http://www.scspace.com/resources/port-tariffs-and-rate-schedules/> and are hereby incorporated by reference into this Agreement and made a part of this Agreement. This Agreement and the MTOS shall be read to be consistent and complimentary. Any conflict among this Agreement and the MTOS shall be resolved by giving priority to this Agreement.

30. **PROVIDER'S TERMINAL TRAFFIC SAFETY VIDEO AND SAFETY GUIDE.** Please note that as a prerequisite to interchange and use a Chassis, all MOTOR CARRIERS and users of Chassis shall view the PROVIDER'S Terminal Traffic Safety Video ("Safety Video") and shall read the PROVIDER'S Terminal Safety Guide ("Safety Guide") before MOTOR CARRIER or user interchanges or uses a Chassis. Both the Safety Video and Safety Guide are located on the PROVIDER'S web site at [Terminal Traffic Safety - SC Ports Authority \(scspace.com\)](http://www.scspace.com/terminal-traffic-safety-video/). MOTOR CARRIER and user hereby certify, covenant, represent, and warrant that he/she/it has watched (or will watch) the Safety Video and has read (or will read) the Safety Guide before he/she/it interchanges or uses a Chassis.

31. **BY SIGNING THIS AGREEMENT MOTOR CARRIER ACKNOWLEDGES, AGREES, COVENANTS, REPRESENTS,**

AND WARRANTS THAT MOTOR CARRIER HAS READ ALL OF THE ABOVE TERMS AND CONDITIONS, THAT MOTOR CARRIER UNDERSTANDS ALL OF THE ABOVE TERMS AND CONDITIONS, THAT MOTOR CARRIER AGREES TO AND ACCEPTS ALL OF THE ABOVE TERMS AND CONDITIONS, AND THAT THE PERSON SIGNING THIS AGREEMENT HAS THE AUTHORITY TO BIND THE MOTOR CARRIER.

32. Please note that pursuant to Section 7 (b) above, MOTOR CARRIER shall automatically be enrolled in PROVIDER's Limited Damage Waiver Program unless the Limited Damage Waiver Program is declined below by being initialed by MOTOR CARRIER's signatory to this Agreement.

Initial

Decline Enrollment into PROVIDER's Damage Waiver Program _____

[End of page. Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the Effective Date.

PROVIDER:

South Carolina State Ports Authority

By: _____
Print Name:
Title:
Date:

MOTOR CARRIER:

Company: _____

By: _____
Print Name:
Title:
Date: