



## MASTER BROKER-CARRIER AGREEMENT

This **MASTER BROKER-SHIPPER AGREEMENT** ("Agreement") is made is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_, a(n) \_\_\_\_\_ corporation, with its principal address at \_\_\_\_\_ (hereafter "Carrier") and Jack Pedowitz Enterprises, Inc., and its affiliated or subsidiary entities, including but not limited to, Jack Pedowitz Enterprises, Inc., Pedowitz Machinery Movers of New Jersey, Inc., Pedowitz Machinery Movers of

Florida, Inc., Pedowitz Machinery Movers of Connecticut, Inc., Pedowitz Machinery Movers of The Carolina's, Jack Pedowitz Machinery Movers, Pedowitz Machinery Movers, Pedowitz Logistics, Ltd, Pedowitz Machinery Movers, LLC, located at, 1765 Expressway Drive N, Hauppauge, NY, 11788, 1 Kullman Corp. Campus Dr, 42 Cherry Street, Lebanon, NJ 08833, 9080 Northfield Dr. Fort Mills, SC 29707, 1650 NW 33 Rd. St. Pompano Beach, FL 33064, 571 Plains Rd (Part of 557 Plains Rd), Milford, CT 06461, 557 Plains Road, Milford, CT 06461, 3316 US Hwy 301 N Wilson, NC 27893, (hereafter "Broker"). Broker and Carrier also referred to herein, separately as "Party" and collectively as "Parties."

**Whereas**, Broker is a broker duly licensed by the Federal Motor Carrier Safety Administration (FMCSA) License No.: \_\_\_\_\_, and or by applicable state, provincial or local authorities and as a broker, arranges the transportation of freight and/or cargo (hereafter "Cargo").

**Whereas**, Carrier owns or controls motor vehicles and is willing and able to provide lawful trucking services, as a contract carrier in accordance with the limits and conditions granted by the Interstate Commerce Commission or Department of Transportation under permit number \_\_\_\_\_; and

**Whereas**, Carrier holds a currently valid safety rating of Satisfactory or Fit as issued by the Department of Transportation; and

**Whereas**, both Parties desire that contract carrier services be purchased and rendered in accordance with terms and conditions specified herein;

**Now Therefore**, as set forth in this Agreement, Broker and Carrier agree that by execution of this Agreement or by execution of any Work Order, or the commencement of any work or delivery or transport of any Cargo, whichever occurs first, the Carrier agrees to be bound to Broker by the terms and conditions of this Agreement, which shall exclusively govern all facets of the relationship between Broker and Carrier. Broker and Carrier further agree as follows:

1. **Term of Agreement:** This Agreement shall become effective on the date of its mutual execution and shall remain in effect until terminated. This contract shall automatically renew every January 1, unless terminated by a Party. In addition to any other termination rights specified herein, either Party may terminate this Agreement, without cause, by providing the other Party with a minimum of thirty (30) days written notice of intent to terminate this Agreement.

2. **Services of Broker.** Broker shall use Carrier and Carrier agrees to perform transportation of certain Cargo from point to point and for a fee as set forth in a Work Order executed by the parties, each of which is incorporated into this Agreement, as though fully set forth herein. (See exemplar Work Order attached as Exhibit A.) Broker's responsibility under this Agreement shall be limited to arranging for, but not actually performing transportation of any Cargo. Broker shall also be responsible to Carrier for providing accurate delivery instructions and a description of any Cargo, including any special handling or security requirements. Any additional services desired from Broker shall be upon mutual written agreement only. In the event of any conflict between any document or oral instructions related to the transport of Cargo under this Agreement, this Agreement, including any Work Order shall control.

3. **Invoices and Payment.** Carrier shall promptly invoice Broker for services provided hereunder and shall provide appropriate documentation as reasonably requested by Broker. Broker agrees to pay Carrier within thirty (30) days of receipt of an undisputed valid invoice and its supporting documentation. In no event shall Broker be liable for any late payment fees or collection costs. Carrier agrees that Broker shall be solely responsible for payment of freight bills hereunder and that Carrier shall not contact Broker's customer regarding payments hereunder without Broker's prior express written consent.

4. **Limitation of Liability.** In no event shall Broker be liable for any indirect, incidental, special, consequential, punitive or exemplary damages, including, without limitation, damages for loss of profits or use, incurred by any person, whether in an action in contract or tort. Carrier further agrees that Broker's liability to Carrier or any party to whom Carrier is liable, arising out of or in any way related

to this Agreement shall be limited to no more than the amount of limitation contained on any valid through bill of lading or the most recent amount paid by Carrier to Broker under this Agreement, whichever amount is less.

5. Minimum Volume. There shall be no required minimum volume of shipments or value under this Agreement. Broker will tender work to Carrier at Broker's sole discretion. Carrier is not restricted from accepting freight to other brokers, or directly from a shipper and Broker shall not be restricted from arranging transportation with other carriers.

6. Compliance with Law. Carrier shall maintain compliance during the performance of any work arising out of his Agreement, with all applicable federal, provincial, state and local laws relating to the provision of its services and maintain any and all licenses, permits, and other authorizations required by federal, state, provincial and local laws.

7. Carrier Personnel. Carrier shall assume full responsibility and liability for the personnel, contractors, subcontractors or other agents it utilizes hereunder. This responsibility shall include, but shall not be limited to, compliance with applicable laws and regulations related to payroll taxes, social security, unemployment insurance and worker's compensation.

8. Hazardous Materials. Carrier shall identify any Cargo that contain Hazardous Materials, as defined in the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq., as amended, and the regulations of the U.S. Department of Transportation made thereunder. Carrier certifies that it is familiar with U.S. laws and regulations applicable to transportation of Hazardous Materials and that they will comply with all such laws and regulations.

9. Insurance. Carrier agrees to keep and maintain during the term of this Agreement and at its sole expense, insurance meeting the requirements of the U.S. Federal Highway Administration, protecting Broker and Broker's customer from claims that may be encountered in the performance of services hereunder. Such insurance shall include at least the following insurance coverage and limits: (a) Worker's compensation and employer's liability insurance, with limits of at least the statutory minimum or \$1,000,000, whichever is greater; (b) Comprehensive general liability insurance covering bodily injury and property damage with limits of \$2,000,000; (c) Cargo Insurance in the amount of the actual value of any Cargo transported under this Agreement, but with not less than constant minimum limits of \$1,000,000; (d) Commercial Auto Liability or Hired and Non-owned Auto Liability Insurance with limits of \$2,000,000; (e) excess/umbrella following form non-contributory insurance in the amount of at least \$10,000,000 and Carrier's primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of Broker's or Shipper's insurance policies; and (f) Upon request, Carrier shall submit to Broker a certificate of insurance or equivalent documents providing evidence of such coverage. Carrier's agreements to indemnify and hold Broker and others harmless from any liability, damage, and loss are in addition to, and not an alternative to, these insurance provisions and the purchase of any of the above coverages shall not operate to waive any of the above indemnity provisions. To the extent that the Carrier may perform under this Agreement without obtaining the above coverages, such an occurrence shall not operate, in any way, as a waiver of the Broker's right to maintain any breach of contract action against Carrier. Carrier hereby agrees to waive any and all rights of subrogation and any and all lien rights (including those arising from worker's compensation/employer's liability policies or other employee benefit programs, commercial general liability policies, or similar policies) which may accrue to it or its insurers. This shall include, but not be limited to, rights of subrogation and lien rights. Carrier understands that this waiver shall bind its insurers of all levels and agrees to put these insurers on notice of this waiver and to have any necessary endorsements added to the insurance policies applicable to this Agreement.

10. No Cargo Lien. Carrier shall have no lien and expressly waives any right to any lien on any Cargo hereunder, or on any property of Broker or Broker's customers.

11. Satisfactory Safety Rating. Carrier shall at no time carry a safety rate of Unfit, Conditional or Unsatisfactory, and if Carrier receives a rating of Unfit, Conditional or Unsatisfactory or in the event that Carrier has reason to expect its safety rating will become Unfit, Conditional or Unsatisfactory, Carrier shall immediately notify Broker in writing and Broker may, at its sole discretion, immediately terminate any contract for carriage;

12. Damage or Delay. Carrier shall be liable to Broker, or Broker's customer, for the loss, damage, or delay of goods occurring while in possession of Carrier and that the processing of claims and salvage hereunder shall be in accordance with the U.S. Department of Transportation, Surface Transportation Board provisions contained in 49 USC Part 370.

13. Indemnity. To the extent compatible with applicable law, Carrier will indemnify and hold harmless Broker, Broker's customers, the consignors and the consignees from and against all claims, lawsuits, demands, liability, costs and expenses (including attorney's fees and other reasonable costs of defense), caused by, arising from, or connected with Carrier's performance under this Agreement.

14. Bills of Lading. That Carrier will follow common industry practice to obtain Bills of Lading and Delivery Receipts. However, Carrier shall not issue any Bill of Lading or other document containing any limitation of liability of any kind. Further, to the extent any terms or conditions listed on any Bills of Lading or Delivery Receipt or the terms or conditions of any tariff and/or other rates or costs of carriage conflict with this Agreement, including any Work Order, the terms of this Agreement shall take precedence.

15. Non-Solicitation. During the term of this Agreement and for a period of twelve (12) months thereafter, Carrier shall not "back-solicit" traffic from any customer, or prospective customer of Broker where the availability of such traffic first became known to Carrier as a result of Broker's efforts, or where the traffic was first tendered to Carrier by Broker. If Carrier violates the provisions of this paragraph, Carrier shall pay Broker a sum equal to ten (10) percent of the line haul freight charges received by Carrier for each load of "back-solicited" traffic carried for a period of twelve (12) months following the violation.

16. Prohibition of Brokering, Outsourcing or Assignment: Without prior written approval of Broker, Carrier shall not broker, outsource or assign its obligations or rights hereunder. Notwithstanding the existence or absence of such prior written approval, in the event that Carrier brokers, outsources or assigns its obligations hereunder, Carrier shall remain liable for all obligations hereunder to the same extent it would be liable if it performed the obligations directly for Broker.

17. Relationship Between Parties. This Agreement shall not be deemed to create any relationship of agency, employment, partnership or joint venture between the Parties. The relationship of Broker and Carrier shall, at all times, be that of an independent contractor.

18. Default. If either Party materially fails to perform its duties under this Agreement, the party claiming default may terminate this Agreement on 10 (ten) days written notice to the other Party. Carrier shall be responsible to pay Broker for any services performed prior to the termination of this Agreement and for shipments not yet completed and/or not yet invoiced to Carrier.

19. Nondisclosure and Confidentiality. The terms of this Agreement and the work performed hereunder shall be considered confidential and except as may be required by law or as required for the performance of obligations hereunder, neither Party shall disclose the terms of this Agreement or the past, current or future performance of any work under this Agreement to a third-party without the written consent of the other Party. These nondisclosure obligations shall survive the termination of this Agreement.

20. Legal Restraint or Force Majeure. If either Party is prevented from or delayed in performing obligations hereunder by action arising from law, legally binding orders, or regulations of a government entity, or because of war, acts of God, labor and civil disturbances, or any cause beyond the reasonable control of such Party, such Party shall not be liable to the other Party for the damages resulting from the failure or the delay in performing obligations hereunder.

21. Notices. Any notice, request, demand, or other communication required or permitted hereunder shall be deemed sufficiently given if set forth in writing and sent via a nationally recognized overnight courier, or facsimile transmission (if evidence of receipt is obtained), or registered mail, or certified mail with return receipt requested (return postage is to be prepaid). Any such notice, request, demand or communication shall be addressed as follows:

22. Successors and Assignment. This Agreement shall be binding upon and inure to the benefit of each Party's respective successors and assigns. Neither Party may assign this Agreement without the written consent of the other Party.

23. Entire Agreement. This Agreement sets forth the entire understanding between the Parties as relating to the subject matter of this Agreement. No carrier tariff provisions are applicable to this Agreement. This Agreement supersedes all prior negotiations, agreements, representations, arrangements and understandings, whether oral, written, expressed or implied as relating to the subject matter of this Agreement.

24. Execution of Agreement and Amendments. Any amendment or modification of the terms of this Agreement must be in writing and signed by each Party. This Agreement and any subsequent amendments may be executed by facsimile.

25. Non-waiver. Failure of either party to insist upon performance of any of the terms, conditions or provisions of this Agreement, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of this Agreement, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

26. Severability. Any term or provision of this Agreement that is held to be invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

27. Dispute Resolution: Disputes Resolution including Jury Waiver, Arbitration Clause, etc.

The parties have entered into this Agreement and wish to add additional terms, conditions and requirements. The following documents which include additional terms, conditions, and requirements are attached to this agreement, and are incorporated by reference and made a part of this agreement as if fully set forth herein. The parties further agree that the parties will comply with and follow all the

terms, conditions and requirements of all the documents INCLUDING THAT ALL PARTIES WAIVE A RIGHT TO A JURY AND ALL PARTIES AGREE TO ARBITRATION. In the event of any conflict, inconsistency or ambiguity between the terms and provisions of the attached documents and those of the above referenced Agreement between the parties, this attached documents shall govern. Documents are located at the following URL: \_\_\_\_\_.

28. Governing Law. This Agreement shall be interpreted and governed by the laws of the State of \_\_\_\_\_. THESE TERMS AND CONDITIONS SHALL PREVAIL OVER ALL INCONSISTENT PROVISIONS IN ANY OTHER CONTRACT DOCUMENTS, INCLUDING ANY CUSTOMER PURCHASE ORDER/WORK ORDER ISSUED AT ANY TIME. Customer (also known as Lessee) shall be conclusively deemed to have accepted these Terms and Conditions (hereinafter 'Agreement'), and to have entered into this Agreement with Lessor, also known as Company. This Agreement shall be interpreted in accordance with the laws of the State where the work is being performed and the laws of the United States of America, including, but not limited to, federal transportation law while the Cargo or Equipment is in transit.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement.

\_\_\_\_\_ (Broker)

\_\_\_\_\_ (Carrier)

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_