



1 June 2011

BROKER – DRAYAGE INTERMODAL AGREEMENT

This Agreement is entered into this ____ day of _____, 20____, by and between Cornerstone Systems, Inc., ("BROKER"), a Registered Property Broker, Lic. No. MC-321007, and _____, a Registered Motor Carrier, Permit/Certificate No. DOT _____ ("DRAYMAN"); collectively, the "Parties". ("Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration (or its predecessors) within the U.S. Department of Transportation.).

1. DRAYMAN REPRESENTS AND WARRANTS THAT IT:

- A. Is a licensed motor carrier authorized to transport property and intermodal trailers/containers having prior or subsequent transport by rail, or ocean carrier under contracts with shippers and receivers and/or brokers of general commodities;
- B. Has executed valid interchange agreements with rail/ocean carrier(s) with whom intermodal transportation is arranged, and will provide BROKER with evidence of the agreement on request; Is not in default of any of it's interchange agreement(s);
- C. Has the expertise, qualified and trained personnel, proper equipment, and facilities to perform its services under the terms of this Agreement;
- D. Is subject to agreements with owners and or lessors of equipment which may be used to perform it's services and that BROKER is not subject or party to any such agreements, nor shall BROKER be liable for the operation, maintenance, or damage to any such equipment;
- E. Makes the representations herein for the purpose of inducing BROKER to enter into this Agreement;
- F. Has and will maintain cargo, personal injury and public liability insurance as described below, and covers the risks in Pars. 1.L, 1.M, 1.O and 3.C;
- G. Will not insert, nor authorize a SHIPPER to insert BROKER'S name on a bill of lading as the SHIPPER without BROKER'S express written consent;
- H. Has authorized the person signing this Agreement to do so;
- I. Agrees that a Shipper's insertion of BROKER's name as the carrier on a bill of lading shall be for the Shipper's convenience only and shall not change BROKER's status as a property broker nor DRAYMAN's status as a motor carrier.
- J. Shall transport the property, subject to the terms of this Agreement;
- K. Is in compliance with all applicable federal, state and local laws relating to the provision of its services and the performance of this Agreement, including, but not limited to, applicable federal and state safety regulations; has implemented, maintains, and monitors equipment and driver safety control programs in compliance with such laws; maintains control of the means and method of transportation hereunder including but limited to performance of it's driver(s).
- L. **Will not re-broker, co-broker, subcontract, assign, interline, pass off, or hand off the transportation of shipments hereunder to any other persons or entity without prior written consent of BROKER. If DRAYMAN breaches this provision, BROKER shall have the right of paying the monies it owes DRAYMAN directly to the delivering carrier, in lieu of payment to DRAYMAN. Upon BROKER's payment to delivering carrier, DRAYMAN shall not be released from any liability to BROKER under this Agreement. In addition to the indemnity obligation in Par 1.O, DRAYMAN will be liable for consequential damages for violation of this provision. "Delivering Carrier" means the carrier that physically transported the freight. If the freight is damaged or lost while in the custody or care of the Delivering Carrier the DRAYMAN is liable for the amount of the claim filed by the BROKER.**
- M. Is in, and shall maintain compliance during the term of this Agreement, with all applicable federal, state and local laws relating to the provision of its services including, but not limited to:

transportation of Hazardous Materials (including the licensing and training of Haz Mat qualified drivers), as defined in 49 C.F.R. §172.800, §173, and §397 et seq. to the extent that any shipments hereunder constitute Hazardous Materials; security regulations; owner/operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety regulations including, but not limited to, hiring, controlled substances and alcohol testing, and hours of service regulations; sanitation, temperature, and contamination requirements for transporting food, perishable, and other products, qualification and licensing and training of drivers; implementation and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers; all applicable insurance laws and regulations including but not limited to workers' compensation.

- i. All DRAYMAN's drivers shall be and are subject to the exclusive direction, control and supervision of DRAYMAN and not BROKER. In order to satisfy shipping requirements of BROKER's customers and/or the contractual service obligations of BROKER, any information furnished by BROKER to DRAYMAN verbally or in writing, including, but not limited to, routes, pick-up and delivery dates, and times, special handling requirements, bracing and blocking requirements, dimensions and weights are provided for informational purposes only and DRAYMAN assumes full responsibility for the performance of its drivers hereunder.
 - ii. Any communications or reporting requirements regarding the location of freight (tracing) are made in order to satisfy BROKER's customer's requirements or BROKER's contractual service obligations to its customers. The method and manner of performance of the requirements under this Agreement are the sole responsibility and control of DRAYMAN.
- N. DRAYMAN will notify BROKER immediately if its federal Operating Authority is revoked, suspended or rendered inactive for any reason; and/or if it is sold, or if there is a change in control of ownership, and/or any insurance required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason.
- O. To the extent permissible under applicable federal and state law, DRAYMAN shall defend, indemnify and hold BROKER and its shipper customer harmless from any claims, actions or damages, arising out of its performance under this Agreement or its interchange agreements, including cargo loss and damage, theft, delay, damage to property, and personal injury or death. Neither Party shall be liable to the other for any claims, actions or damages due to the negligence or intentional act of the other Party, or the shipper. The obligation to defend shall include all costs of defense as they accrue.
 - i. Except for DRAYMAN's liability under Par 1.F, unless otherwise agreed in writing, the Parties' indemnity obligations shall be subject to the insurance coverage and monetary insurance limits referred to in Subp. i.
- P. DRAYMAN agrees that at no time during the term of its contract with BROKER shall it have an "Unsatisfactory" or "Unfit" or an equivalent safety rating as determined by the Federal Motor Carrier Safety Administration (FMCSA), and that it has no knowledge of any threatened or pending interventions by FMCSA under CSA 2010; nor is it subject to any investigation or disciplinary action by any state agency related to enforcement of safety laws and regulations. If DRAYMAN receives an "Unsatisfactory" or "Unfit" safety rating, or a rating is changed from "Satisfactory" to "Conditional" or from "Continue to Operate" to "Marginal" it shall immediately notify BROKER and shall not transport any shipment hereunder without Brokers prior written consent. The provisions of this paragraph are intended to include safety rating designations which may replace those above, which are subject to change by FMCSA at any time.
- Q. Does not have more than two SMS BASIC scores greater than the threshold established by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, and will notify BROKER in writing immediately if its SMS BASIC's change to more than two areas above the threshold.
- R. Authorizes BROKER to invoice and accept payment from shipper, consignee or third party responsible for payment for DRAYMAN's services to shipper and consignee and waives all right to collection from shippers, consignee or third party responsible for payment for these services.
- S. Has investigated, monitors, and agrees to conduct business hereunder based on the credit-worthiness of BROKER and is granting BROKER credit terms accordingly.
- T. 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, et seq. (including any amendments) to the extent that any shipments hereunder constitute Hazardous Materials. DRAYMAN shall be

solely responsible for any violation of the applicable laws and regulations, and shall defend, indemnify, and hold BROKER and its customers harmless and pay BROKER on demand from any claims, losses, damages or liability incurred, including, but not limited to reasonable attorneys fees arising from any non-compliance;

2. BROKER RESPONSIBILITIES:

- A. SHIPMENTS, BILLING & RATES: BROKER shall offer DRAYMAN loads/shipments annually. BROKER shall inform DRAYMAN of (a) place of origin and destination of all shipments; and (b) if applicable, any special shipping and handling instructions, or special equipment requirements, of which BROKER has been timely notified.
- B. BROKER agrees to conduct all billing services to shippers, consignees, or other party responsible for payment. DRAYMAN shall invoice BROKER for its (DRAYMAN's) charges, as mutually agreed in writing, by fax, or by electronic means, contained in BROKER's Load Confirmation Sheet(s) / dispatch sheets incorporated herein by this reference. Additional rates for drayage, truckload or LTL shipments, or modifications or amendments of the above rates, or additional rates, may be established to meet changing market conditions, shipper requirements, BROKER requirements, and/or specific shipping schedules as mutually agreed upon, and shall be confirmed in writing (or by fax or email) by both Parties. Any such additional, modified, or amended rates, changes in rates shall automatically be incorporated herein by this reference.
- C. RATES: Additionally, any rates, which may be verbally agreed upon, shall be deemed confirmed in writing where DRAYMAN has billed the agreed rate and BROKER has paid it. All written confirmations of rates, including confirmations by billing and payment, shall be incorporated herein by this reference. Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, tariff rates, released rates or values, limited liability rates or values, or tariff rules or circulars, shall only be valid when their terms are specifically agreed to in a writing signed by both Parties.
- D. PAYMENT: The Parties agree that BROKER is the sole party responsible for payment of DRAYMAN's charges. Failure of BROKER to collect payment from its customer shall not exonerate BROKER of its obligation to pay DRAYMAN. BROKER agrees to pay DRAYMAN's invoice within 30 days of receipt of the bill of lading or proof of delivery, provided DRAYMAN is not in default under the terms of this Agreement, provided invoice and other required documentation is received no later than 60 days after date of delivery, or scheduled date of delivery of the freight whichever is earlier. DRAYMAN expressly waives its right to collection for failure to deliver timely invoicing and other required documentation within the 60 day period. Arbitration or litigation for alleged nonpayment for DRAYMAN services hereunder must be commenced within one year of date of delivery or scheduled date of delivery whichever is earlier in order to avoid being permanently barred. Upon receipt of payment of any amounts by DRAYMAN arising out of this Agreement, DRAYMAN automatically assigns all of its rights to payment from shippers, consignees, or third parties to BROKER. DRAYMAN shall not seek payment from Shipper, consignees, or third parties, if they can prove payment to BROKER.
- E. BOND: BROKER shall maintain a surety bond /trust fund as agreed to in the amount of \$10,000 and on file with the Federal Motor Carrier Safety Administration (FMCSA) in the form and amount not less than that required by that agency's regulations.
- F. BROKER's responsibility is limited to arranging for, but not actually performing, transportation of a shipper's freight.

3. DRAYMAN RESPONSIBILITIES:

- A. EQUIPMENT: All shipments tendered by a shipper or customer to DRAYMAN, procured by BROKER under the terms of this Agreement, shall be accepted by DRAYMAN for transportation, provided such shipment does not exceed the capacity (weight or cubic volume) of DRAYMAN's equipment. DRAYMAN agrees to provide or arrange for the "Necessary Equipment" and qualified personnel for completion of the transportation services required hereunder. "Necessary Equipment" means but is not limited to equipment which meets applicable state and federal safety and security standards, is structurally sound, and is suitable for transporting its contents without damage.
- B. BILLS OF LADING: DRAYMAN shall sign a bill of lading produced by shipper or DRAYMAN shall issue a bill of lading or delivery receipt for the property it receives and in compliance with 49 C.F.R. §373.101 (and any amendments thereto), for the property it receives for

transportation under this Agreement. Unless otherwise agreed in writing, DRAYMAN shall become fully responsible/liable for the freight when it takes/receives possession thereof, and the trailer(s)/container(s) is loaded, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to DRAYMAN, and which responsibility/liability shall continue until delivery of the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of the bill of lading (including but not limited to payment and credit terms, released rates or released value) inconsistent with the terms of this Agreement shall be ineffective. Failure to issue a bill of lading, or sign a bill of lading acknowledging receipt of the cargo, by DRAYMAN, shall not affect the liability of DRAYMAN. DRAYMAN shall submit copies of the railroad bills of lading or other proof of delivery to BROKER, as requested by BROKER.

C. LOSS & DAMAGE CLAIMS:

- i. DRAYMAN shall comply with applicable federal and state regulations (if any) for processing all loss and damage claims and salvage, which arise out of the discharge of DRAYMAN's duties and responsibilities hereunder.
- ii. The burden of proof for DRAYMAN's liability and damages for any cargo loss, or theft from any cause shall be determined under the Carmack Amendment, 49 U.S.C. §14706.
- iii. Special Damages: Any liability of DRAYMAN under Pars. A13 and 14 above shall constitute Special Damages, the risk of which is expressly assumed by DRAYMAN and which shall not be limited by any liability under Subp. (ii) above.
- iv. DRAYMAN shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations issued or adopted by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, for processing all loss and damage claims and salvage, which arise out of the discharge of DRAYMAN's duties and responsibilities hereunder; and
- v. DRAYMAN assumes all risk of loss and shall defend, indemnify and hold BROKER harmless from any liability arising out of violation of Par. 1.O including consequential damages, costs, expenses and reasonable attorney fees. At BROKER's sole option and not in limitation of any other remedy hereunder BROKER may declare DRAYMAN's compensation for any such shipments forfeited. If, upon picking up a loaded container/trailer from a shipper DRAYMAN's learns or sees or becomes aware of damage to the cargo or a discrepancy between the quantities count on the bill of lading and the quantities actually loaded in the container/trailer, DRAYMAN's shall write on the bill of lading a description of the damage and the actual number of pieces or pallets actually loaded in the container/trailer. DRAYMAN shall notify BROKER immediately by telephone, fax or email of any such damage or discrepancies.
- vi. When picking up a loaded container/trailer at a railroad terminal, DRAYMAN shall inspect the container/trailer for a seal. If there is no seal or the seal is damaged or the seal number does not match the seal number on the railroad interchange document, the driver shall make a notation on the bill of lading and any other interchange document and shall notify BROKER immediately by telephone, fax or email. DRAYMAN shall also notify the railroad gate personnel immediately upon discover or a seal alteration, tampering, or no seal.
- vii. When delivering a loaded container/trailer to a consignee, DRAYMAN shall write the trailer seal number on the delivery receipt and mark it "seal intact" and obtain a signature (written and printed) from the consignee on the delivery receipt as proof of delivery. If the driver learns, sees or becomes aware of cargo loss or damage on the shipment, or the consignee makes written notation of cargo loss, damage or a missing seal on the delivery receipt, DRAYMAN shall notify BROKER immediately by telephone, fax or email. If such discovery of cargo loss, damage or seal discrepancy is made during normal business hours, the driver shall not leave the consignee's premises until instructed by BROKER. If such discovery is made outside of normal business hours, contact the BROKERS after- hour numbers. DRAYMAN further acknowledges that its failure to notify BROKER immediately of loss or damage may result in the railroad not being allowed a reasonable opportunity to inspect the shipment, and thus, prevent recovery by BROKER or the shipper for any such damage. Drayman shall be liable to BROKER for damages incurred due to DRAYMAN's failure to notify BROKER of cargo loss or damage as outlined above.

- D. **INSURANCE**: DRAYMAN shall furnish BROKER with Certificate(s) of Insurance, or insurance policies providing thirty (30) days advance written notice of cancellation or termination, and unless otherwise agreed, subject to the following minimum limits: General liability \$1,000,000; motor vehicle (including hired and non-owned vehicles) \$1,000,000 (\$5,000,000 if transporting hazardous materials including environmental damages due to release or discharge of hazardous substances); cargo damage/loss, \$100,000; workers' compensation with limits required by law. Except for the higher coverage limits which may be specified above, the insurance policies shall comply with minimum requirements of the Federal Motor Carrier Safety Administration and any other applicable regulatory state agency. Nothing in this Agreement shall be construed to avoid or limit DRAYMAN's liability due to any exclusion or deductible in any insurance policy. Coverage provided DRAYMAN's insurance policies shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to loss and damage claims. DRAYMAN grants permission to BROKER, and shall require its insurance underwriters and agents, to provide BROKER upon BROKER's request a copy of all insurance policies including copies of all exclusions on any cargo policy. The cargo insurance policy shall not exclude coverage for infidelity, fraud, dishonesty, or criminal acts of DRAYMAN, its employees, officers and directors, contractors, subcontractors, owner-operators, or agents of DRAYMAN. If any such policy contains those exclusions, DRAYMAN shall obtain and furnish endorsements in the policy providing coverage to the satisfaction of BROKER. No policy of insurance provided to BROKER hereunder shall have a deductible greater than \$5,000.
- E. **TIMELY BILLING**: BROKER's obligation to pay DRAYMAN for its services shall be conditioned upon BROKER's receipt of DRAYMAN's invoice(s) within 60 days of completion of DRAYMAN's services. Claims for undercharges (if any) must be received by BROKER 180 days of completion of DRAYMAN's services or they are deemed to be waived. Unless otherwise agreed in writing, DRAYMAN shall indemnify BROKER and its customer(s) against any claim(s) for storage, demurrage, per diem or detention which results from DRAYMAN's delay in providing service(s), including, but not limited to, or returning empty equipment.
- F. **ACCESSORIAL CHARGES**:
- i. DRAYMAN shall not bill BROKER, and BROKER shall have no obligation to pay, for accessorial charges without the written agreement of BROKER. Said accessorial charges include, but are not limited to, driver detention, driver assist or load or unload, lumper charge(s), container/trailer detention or usage charges, container/trailer storage charges, chassis charges, any damages or theft of any containers/chassis/trailers, or other equipment which occurs while under the possession/control of DRAYMAN.
 - ii. DRAYMAN shall be liable to BROKER for any of the above-described charges incurred by, charged to, or asserted against BROKER due to DRAYMAN's failure to comply with the terms of this Agreement, any railroad equipment interchange agreement, or any applicable ocean carrier, freight forwarder, or NVOCC tariff(s).
- G. **ASSIGNMENT OF RIGHTS**: DRAYMAN automatically assigns to BROKER all its rights to collect freight charges from Shipper or any responsible third party on receipt of payment of its freight charges from BROKER.
- H. DRAYMAN assumes full responsibility and liability for payment of the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, old age pensions, workers' compensation, social security, with respect to persons engaged in the performance of its transportation services hereunder. BROKER shall not be liable for any of the payroll-related tax obligations specified above and DRAYMAN shall indemnify, defend, and hold BROKER harmless from any claim or liability imposed or asserted against BROKER for any such obligations.

4. **DRAYMAN REQUIREMENTS FOR REFRIGERATED LOADS**

A. DRAYMAN AGREES THAT ITS DRIVER MUST:

- i. Prior to loading, confirm that the reefer unit is working properly and the trailer is pre-cooled to the required temperature.
- ii. Trailers used for transporting produce must have air chute clear and in good condition for proper circulation, no exceptions! Make sure the chute is not damaged, obstructed or blocked in any way.
- iii. Be certain that space is provided for proper air circulation in front, rear, top, bottom and between the load.

- iv. Check pulp temperature of products to ensure required pre-cooling. Driver must not accept any fresh product which pulps over 2 degrees (or other agreed amount) above the required temperature stated on the BROKER rate confirmation.
- v. If the temperature on the BROKER Rate Confirmation differs from that on the Bill of Lading, contact BROKER before signing the bills of lading at the shipper. **If the shipment is accepted contrary to the terms of the BROKER Rate Confirmation, DRAYMAN accepts all resulting risk of loss.**
- vi. Make sure that the pulp temperature documentation of the product loaded appears on the original Bill of Lading and agrees with that temperature.
- vii. **When driver signs the Bill of Lading, he is confirming that he received the correct product, at the correct count and at the proper temperature. Be sure this information agrees with the information on the Bill of Lading.**
- viii. Maintain continuous temperature stated on Broker's Rate Confirmation in-route, unless otherwise instructed in writing by BROKER.
- ix. Notify BROKER immediately (before leaving receiver/consignee) if the shipment is damaged or rejected in whole or in part. (Allows Broker time to get USDA inspection.)
- B. No disposition of any rejected product shall be made without instructions from BROKER.
- C. DRAYMAN assumes all risk of loss arising out of any failure to follow these directions.
- D. DRAYMAN represents that reefer equipment is and has been properly maintained and that it has record (written) proof of compliance with manufacturers' maintenance requirements.

5. MISCELLANEOUS:

- A. **INDEPENDENT CONTRACTOR:** It is understood and agreed that the relationship between BROKER and DRAYMAN is that of independent contractor. None of the terms of this Agreement, or any act or omission of either Party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between the Parties. DRAYMAN shall provide the sole supervision and shall have exclusive control over the operations of its employees, contractors, subcontractors, agents, as well as all vehicles and equipment used to perform its transportation services hereunder. BROKER has no right to discipline or direct the performance of any driver and/or employees, contractors, subcontractors, or agents of DRAYMAN. DRAYMAN represents and agrees that at no time and for no purpose shall it represent to any party that it is anything other than an independent contractor in its relationship to BROKER.
- B. **NON-EXCLUSIVE AGREEMENT:** DRAYMAN and BROKER acknowledge and agree that this contract does not bind the respective Parties to exclusive services to each other. Either party may enter into similar agreements with other carriers, brokers, or freight forwarders.
- C. **WAIVER OF PROVISIONS:**
 - i. Failure of either Party to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of either Party to thereafter enforce such a term or provision.
 - ii. This Agreement is for specified services pursuant to 49 U.S.C. §14101(b). To the extent that terms and conditions herein are inconsistent with Part (b), Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995), the Parties expressly waive any or all rights and remedies they may have under the Act.
- D. **DEFAULT:** In the event of a material breach by DRAYMAN of any provisions of this Agreement, BROKER shall have the right to withhold and/or set off any payments owing to DRAYMAN and/or received from shippers which BROKER is obligated to pay DRAYMAN. If a DRAYMAN is in material breach of this agreement and there is a resulting freight claim as a result of the breach, then DRAYMAN is fully liable for the value of the claim filed by customer. The right of withholding and/or setoff is not an exclusive remedy and BROKER shall have and may exercise, subject to this agreement, all other remedies it may have at law or in equity against DRAYMAN.
- E. **DISPUTES:** In the event of a dispute arising out of this Agreement, including but not limited to Federal or State statutory claims, BROKER shall sole right to determine Arbitration or Litigation. Arbitration proceedings shall be conducted under the rules of the Transportation Arbitration and Mediation PLLC (TAM), or Transportation ADR Council, Inc. (ADR), upon mutual agreement of the Parties, or if no agreement, then at BROKER's sole discretion. Arbitration or Litigations proceedings shall be started within eighteen (18) months from the

date of delivery or scheduled date of delivery of the freight, whichever is later. Upon agreement of the Parties, arbitration proceedings may be conducted outside of the administrative control of the TAM or ADR. The decision of the arbitrators shall be binding and final and the award of the arbitrator may be entered as judgment in any court of competent jurisdiction. The rationale and reasoning of the decision of arbitrator(s) shall be fully explained in a written opinion. The prevailing party shall be entitled to recovery of costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken to enforce the award of arbitrators. Arbitration proceedings shall be conducted at the office of the TAM or ADR nearest Memphis, Tennessee or such other place including by teleconference, or video conference, as mutually agreed upon in writing or directed by the acting arbitration association. Provided, however, either Party may apply to a court of competent jurisdiction for injunctive relief. Unless preempted or controlled by federal transportation law and regulations, the laws of the State of Tennessee shall be controlling notwithstanding applicable conflicts of laws rules. The arbitration provisions of this paragraph shall not apply to enforcement of the award of arbitration. In the event of litigation the prevailing Party shall be entitled to recover costs, expenses and reasonable attorney fees, including but not limited to any incurred on appeals. Venue, controlling law, and jurisdiction in any legal proceedings shall be in Shelby County in the State of Tennessee notwithstanding conflicts of laws and rules to the contrary.

F. NO BACK SOLICITATION:

- i. DRAYMAN shall not directly or indirectly solicit, divert, back-solicit or perform any freight transportation (with or without compensation) for any customer of BROKER, when such customer(s) was serviced as a result of this Agreement. Transportation of freight hereunder by DRAYMAN, shall be deemed conclusive evidence of DRAYMAN's transportation service to BROKER's customers.
- ii. In the event of breach of this provision, BROKER shall be entitled, for a period of 12 months following delivery of the last shipment transported by DRAYMAN under this Agreement, to a commission of twenty percent (20%) of the gross transportation revenue (as evidenced by freight bills) received by DRAYMAN for the transportation of said freight as liquidated damages. Additionally, BROKER may seek injunctive relief and in the event it is successful, DRAYMAN shall be liable for all costs and expenses incurred by BROKER, including, but not limited to, reasonable attorney's fees.

G. CONFIDENTIALITY:

- i. In addition to Confidential Information protected by law, statutory or otherwise, the Parties agree that all of their financial information and that of their customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared or learned between the Parties and their customers, shall be treated as Confidential, and shall not be disclosed or used for any reason without prior written consent.
 - ii. In the event of violation of this Confidentiality paragraph, the Parties agree that the remedy at law, including monetary damages, may be inadequate and that the Parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating Party from further violation of this Agreement in which case the prevailing Party shall be entitled to all costs and expenses incurred, including but not limited to reasonable attorney's fees.
- H. The limitations of liability for cargo loss and damage as well as other liabilities, arising out of the transportation of shipments, which originate outside the United States of America, may be subject to the laws of the country of origination.

- I. MODIFICATION OF AGREEMENT: This Agreement and Exhibit A et. seq. attached may not be amended, except by mutual written agreement, or the procedures set forth above (Pars 2.B and 2.C).

J. NOTICES:

- i. All notices provided or required by this Agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax, or by email with electronic receipt.
- ii. The Parties shall promptly notify each other of any claim that is asserted against either of them by anyone arising out of the Parties performance of this Agreement.

- iii. Notices sent as required hereunder, to the addresses shown in this Agreement shall be deemed sent to the correct address, unless the Parties are notified in writing of any changes in address.
- K. **CONTRACT TERM:** The term of this Agreement shall be for one (1) year from the date shown above and thereafter it shall automatically be renewed for successive one year periods, unless terminated upon 30 days prior written notice with or without cause, by either party at any time, including the initial term. In the event of such termination the Parties shall be obligated to complete their performance obligations to each other for unfinished work in process and related payments.
- L. **SEVERANCE: SURVIVAL:** In the event any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of this Agreement for any reason.
- M. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts each of which shall be deemed to be a duplicate original hereof.
- N. **FAX CONSENT:** The Parties to this Agreement are authorized to fax to each other at the numbers shown herein, (or otherwise modified in writing from time to time) shipment availabilities, equipment and rate promotions, or any advertisements of new services.
- O. **ENTIRE AGREEMENT:** Unless otherwise agreed in writing, this Agreement contains the entire understanding of the Parties and supersedes all verbal or written prior agreements, arrangements, and understandings of the Parties relating to the subject matter stated herein. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

IN WITNESS WHEREOF, we have signed this Agreement the date and year first shown above.

Cornerstone Systems, Inc
(BROKER)

(DRAYMAN)

Authorized Signature
Jonathan Ward
Printed Name
Risk Manager
Title

Authorized Signature
Printed Name
Title

Company Address:

Company Address:

3250 Players Club Parkway
Memphis, TN 38125-8844

901-842-0660 901-271-7192
Phone Fax
jward@cornerstone-systems.com
E-Mail

Phone Fax
E-Mail

CORNERSTONE SYSTEMS, INC.

BROKER DRAYAGE INTERMODAL EXHIBIT B

Cornerstone Carrier Expectations – ORIGIN

- Pick Ups must be made according to instructions provided by shipper and transmitted to carrier by Cornerstone's dispatch.
- Any rate discrepancy on a dispatch must be addressed to the appropriate Cornerstone representative prior to pick up who will then follow-up with shipper, if necessary.
- Appropriate personnel at Cornerstone must be notified prior to the appointment time if carrier cannot arrive as scheduled. Cornerstone, not carrier, will reschedule the appointment.
- Carrier will be responsible for any additional per diem incurred by Cornerstone due to a missed appointment. In addition, if the driver arrives late and is rejected by shipper and Cornerstone is not paid, then carrier will also not be paid.
- Equipment will be provided upon request.
- Expired reservations will be deducted from carrier's dray rate.
- Bad ordered equipment must be reported to the proper party and to Cornerstone. (See Exhibit C)
- Street turned equipment must be in good order and a proper interchange must be made to the correct Cornerstone location by the carrier. Cornerstone will not be responsible for any charges associated with a load going back to the rail and being rejected at the ramp. Any additional charges incurred by Cornerstone due to street interchange not being done correctly will be the responsibility of the carrier. (See Exhibit C)
- Cornerstone must be notified of the origin ramp on street turned equipment before a load is picked up. Any crossover or misuse charges incurred by Cornerstone will be the responsibility of the carrier if this information is not provided in writing before load is picked up. (See Exhibit C)
- Equipment will be pre-billed prior to actual loading but billing information must be called into Cornerstone before driver departs shipper. Any charges associated with a misroute will be the responsibility of the carrier. Cornerstone will need the following information verified:
 - Origin/Destination
 - Bill of Lading #
 - PO #'s
 - Pick Up #
 - Pieces
 - Weight
 - Seal
 - Driver In and Out Times
- Carrier is expected to ingate all live loads upon departure from shipper. For equipment dropped in a pool, carrier is expected to ingate equipment within the specified time frame given by shipper and transmitted to carrier by Cornerstone's dispatch.

- Cornerstone must be notified immediately while the driver is still at the shipper if shipper refuses to sign the bill of lading.
- If a driver arrives at the ramp and there is no billing, the appropriate Cornerstone representative must be notified immediately so that Cornerstone may contact shipper. Cornerstone, if permitted by shipper, will pay driver detention after one hour if this occurs. Cornerstone will not pay any additional charges if driver leaves the ramp without Cornerstone's knowledge.
- All equipment dropped in a pool must be reported to Equipment Control. Carrier must provide the equipment number, reservation number, date and time dropped. Equipment confirmation is solely between the carrier and Cornerstone. Any charges associated with equipment dropped in a pool but not reported to Cornerstone will be billed to the carrier. Carrier must obtain a signed POD for all equipment dropped. Drop tickets must be provided upon Cornerstone's request.
- Carrier will be responsible for any per diem on equipment, incurred by Cornerstone, if it is not dropped into a pool the same day it is outgated.
- Cornerstone must receive a copy of the Shipper's Bill of Lading within 7 days.
- A carrier must notify Cornerstone immediately if they are unable to ingate a load prior to the expiration of the GRS (Gate Reservation System) number.
- Cornerstone reserves the right to have another carrier ingate equipment if the carrier who drops the equipment in a pool cannot ingate the load within the requested time Carrier who drops equipment will be paid ½ dray if they are unable to finish their commitment.
- Carrier will be responsible for any fees incurred by Cornerstone for not ingating a load before a reservation expires.

Cornerstone Carrier Expectations – DESTINATION

- Cornerstone reserves the right to reload our equipment. Any equipment loaded for another IMC without Cornerstone's permission could result in fees being assessed to the carrier.
- Cornerstone must be notified immediately while the driver is still at the consignee if consignee refuses to sign the driver's proof of delivery (POD)
- Any rate discrepancy on a prenote must be addressed to the appropriate Cornerstone representative prior to delivery.
- Carrier is expected to make delivery appointment at scheduled time. If an appointment cannot be made, Cornerstone must be notified prior to appointment being missed. Cornerstone, not carrier, will reschedule the appointment.
- Carrier will be responsible for any storage or per diem incurred by Cornerstone due to missed appointment. In addition, if the driver arrives late and is rejected by consignee and Cornerstone is not paid, then carrier will also not be paid.
- Equipment must be terminated the same day a delivery is made with the exception being that Cornerstone has instructed carrier to drop in a pool or use on another Cornerstone load. Any per diem incurred due to empties not being terminated as instructed will be billed to the carrier.

- Equipment dropped at destination due to Cornerstone's request must be terminated within 24 hours from empty notification. Any additional charges incurred by Cornerstone due to carrier not terminating empty will be billed to the carrier.
- Any equipment Cornerstone instructs the carrier to terminate must be properly street interchanged if carrier reloads for another IMC. Any additional per diem billed to Cornerstone after termination is requested will be billed to the carrier.
- All empty equipment must be terminated to appropriate ramp/depot. Any charges incurred by Cornerstone due to carrier's error will be the responsibility of the carrier. (See Exhibit C)

Cornerstone Carrier Expectations – ACCESSORIALS

- Cornerstone must be notified at or before the time of occurrence of any accessorial charge. Accessorial charges that have not been called into Cornerstone will not be approved.
- Unless approved by shipper, Cornerstone will not pay detention if a driver arrives late for an appointment due to no fault of Cornerstone.
- If approved by shipper, Cornerstone will pay driver detention after two hours
- Verification of driver in/out times must be documented by shipper/consignee on driver hand ticket or POD. If shipper/consignee refuses to sign, Cornerstone must be notified before driver departs.
- An accessorial with all additional charges must be submitted within 48 hours. It is only necessary to fax one copy of an accessorial. If carrier has not received an authorization within the time specified, contact appropriate Cornerstone personnel.
- All requested documentation that verifies charges must be submitted within 7 business days.
- An accessorial will be approved within 3 business days during non-peak seasons and 7 business days during peak seasons if the back up documentation supports the charges and Cornerstone was notified of the charges at the appropriate time.
- Any declined accessorial that the carrier is disputing must be done so within 48 hours. In order to dispute the charges being declined, the carrier must contact the person at Cornerstone who declined the accessorial or re-submit the accessorial with a description as to why the dispute is being submitted. A declined accessorial that is re-submitted without the cause for dispute will not be considered a dispute and will not be looked at again.
- Cornerstone will not pay any additional administrative fees, including but not limited to, accessories, rail storage, or comcheck issuance.
- Backup paperwork necessary to process an accessorial includes, but is not limited to, the following:
 - Origin Driver Detention – Bill of Lading and hand ticket with verification of driver in/out times signed by shipper. In and Out Times hand written on the Bill of Lading will not be accepted as verification
 - Destination Driver Detention – Proof of Delivery and verification of driver in/out times signed by consignee
 -
 - Driver Count / Assist / Load / Unload – Proof of Delivery clearly marked with service performed, in/out times verified, and total pieces counted if driver count involved.

- Stop Off / Dry Run / Additional Dray – Signed POD for each stop with address, date and time verified by shipper / consignee.

Cornerstone Carrier Expectations – BILLING REQUIREMENTS

- All invoices must include Cornerstone's reference number which is listed on all prenotes. Cornerstone's reference number will be provided to origin carriers once the bill of lading has been received. An invoice submitted without a reference number will be returned.
- All invoices for accessorial charges must include an authorization number which will be faxed or emailed to carrier once charges have been approved. Submitting an invoice without an authorization number will not be paid.
- Backup paperwork necessary to process an invoice includes, but is not limited to, the following:
 - Origin – Bill of Lading
 - Destination – Signed Proof of Delivery
 - Copy of signed accessorial with authorization number

All carriers must be on an approved fuel surcharge matrix that will be updated every Monday afternoon and is based on the DOE National Average. Any questions or issues regarding fuel surcharges should be emailed to fuel@cornerstone-systems.com.

Cornerstone Carrier Expectations – CARRIER DEDUCTIONS

A Carrier Deduction will be submitted when additional charges are incurred due to no fault of Cornerstone. Cornerstone will bill back these charges to the carrier at cost.

Independent Contractor

Carrier acknowledges and agrees that it is an independent contractor and shall exercise exclusive control, supervision, and direction over (i) the manner in which transportation services are provided; (ii) Carrier employees engaged in providing transportation services; and, (iii) the equipment selected and used to provide transportation services. Carrier further acknowledges and agrees that it shall be solely responsible for the safety of the equipment and assumes all liability for any loss, damage, or destruction of any of shipper's goods or property while under Carrier's care, custody, and control due to Carrier's failure to properly inspect or report bad ordered equipment. Carrier shall have full responsibility for the payment of local, state, and federal payroll taxes, workers compensation and other social security and related payment requirements with respect to all persons engaged in the performance of transportation services. Carrier acknowledges and agrees that this Exhibit B does not create,

nor shall it be deemed to create a partnership, joint venture, or agency relationship between Cornerstone and Carrier.

ACKNOWLEDGEMENT OF CARRIER EXPECTATIONS

Cornerstone Systems, Inc
(BROKER)

(DRAYMAN)

Authorized Signature
Jonathan Ward
Printed Name
Risk Manager
Title

Authorized Signature

Printed Name

Title

Company Address:

3250 Players Club Parkway
Memphis, TN 38125-8844

Company Address:

901-842-0660 901-271-7192
Phone Fax
jward@cornerstone-systems.com
E-Mail

Phone Fax

E-Mail

**The person signing this agreement must have authority to sign the agreement and represents that they have the authority to sign such an agreement. Failure to sign and return is interpreted to be acceptance of agreement.

CORNERSTONE SYSTEMS, INC.

BROKER DRAYAGE INTERMODAL EXHIBIT C

*****All information listed in this section is available on the ChannelSpeed website: <http://channelspeed.rez1.com>, under the "Policies" section, item 400 (Additional Charges & Incentives) and item 600 (Reservations and Shipment Issues).***

Equipment Issues at Reservation Ramp

- All equipment is Red Tagged, Wet or Bad Ordered
- No equipment available at the ramp
- No chassis available at the ramp

The driver must obtain a complete list of equipment. Once it is determined that there is no good equipment, contact Cornerstone while driver is still at the ramp and Cornerstone will contact REZ-1. Cornerstone personnel will need the reservation number and the name of any person the driver is speaking to at the ramp. **NOTE: An EMP/NACS Ramp Problem Log must be filled out at all Norfolk Southern facilities and submitted to Cornerstone in order for REZ-1 to waive the expiration charges for the reservation. Failure to provide this information will result in carrier being charged back the expired reservation fee incurred by Cornerstone.**

Bad Ordered Equipment

After driver leaves the ramp, any additional charges incurred due to equipment being outgated in bad ordered status or street interchanged in bad order status will be the responsibility of the carrier. Additional charges would include, but are not limited to, empty being refused by the shipper/consignee, additional dray to return empty to the ramp, empty/empty penalty charges, per diem incurred while equipment is out.

Applying Street Interchanges to Active Reservations

Applying an open reservation to a unit on the street is the responsibility of the drayman and must be made to the proper Cornerstone office. Any additional charges incurred due to an improper street interchange will be billed to the carrier.

Crossover / Misuse Charges

When street turning equipment for Cornerstone, it is the responsibility of the drayman to notify Cornerstone up front who the equipment belongs to and where the loaded equipment needs to be returned. It is also the responsibility of the drayman to return empty equipment to the appropriate ramp. Any charges incurred by Cornerstone associated with ingating a load or

empty at the wrong ramp will be billed to the carrier. This applies to all EMH/UMAX/Pacer equipment.

Safety of Equipment

Carrier acknowledges and agrees that it shall only use equipment that is clean, in good operating condition and repair, in compliance with any federal, state, provincial, territorial, or municipal statutes, regulations, or ordinances, and is suitable and properly configured to load, transport, and unload shipments safely. Carrier assumes all liability for any loss, damage, or destruction of any of shipper's goods or property while under Carrier's care, custody, and control due to Carrier's failure to properly inspect or report bad ordered equipment.

ACKNOWLEDGEMENT OF CARRIER EXPECTATIONS

Cornerstone Systems, Inc
(BROKER)

(DRAYMAN)

Authorized Signature
Jonathan Ward
Printed Name
Risk Manager
Title

Authorized Signature

Printed Name

Title

Company Address:

Company Address:

3250 Players Club Parkway
Memphis, TN 38125-8844

901-842-0660 901-271-7192

Phone Fax

Phone Fax

jward@cornerstone-systems.com

E-Mail

E-Mail

**The person signing this agreement must have authority to sign the agreement and represents that they have the authority to sign such an agreement. Failure to sign and return is interpreted to be acceptance of agreement.

Please email invoice and backup documentation to
invoices@cornerstone-systems.com or faxed to 901-531-8397

Vendor Set-up Package

Carrier Name: _____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
Email: _____

Remit to Name: _____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
Email: _____

Requested Information

- Contract Authority (Provide Certificate)
- Signed Contract (Must initial all pages of contract)
- W-9 Completed
- DOT Rating
- Haz-Mat Authority (Provide Certificate)
- Haz-Mat Security Plan Certification – attached document
- Pallet Exchange
- Liquor Permit
- Bonded Shipments

Type of Service (Please check any box that applies)

<input type="checkbox"/> Truck/OTR	<input type="checkbox"/> Broker	<input type="checkbox"/> Warehouse	<input type="checkbox"/> Air	<input type="checkbox"/> Customs Broker
<input type="checkbox"/> LTL	<input type="checkbox"/> 3-PL	<input type="checkbox"/> Transload	<input type="checkbox"/> Ocean	<input type="checkbox"/> Equip Provider
<input type="checkbox"/> Drayage	<input type="checkbox"/> Payable	<input type="checkbox"/> Lumper	<input type="checkbox"/> Railroad	<input type="checkbox"/> Freight Forwarder

Type of Equipment (Please check any box that applies)

<input type="checkbox"/> Chassis	<input type="checkbox"/> 48' Trailer	<input type="checkbox"/> 48' Air Ride	<input type="checkbox"/> 48' Refrig	<input type="checkbox"/> 20' Container
<input type="checkbox"/> Curtain	<input type="checkbox"/> 53' Trailer	<input type="checkbox"/> 53' Air Ride	<input type="checkbox"/> 53' Refrig	<input type="checkbox"/> 40' Container
<input type="checkbox"/> Drop Deck	<input type="checkbox"/> 57' Trailer	<input type="checkbox"/> 57' Air Ride		<input type="checkbox"/> 48' Container
<input type="checkbox"/> Flatbed	<input type="checkbox"/> Heavy Haul	<input type="checkbox"/> Pups		<input type="checkbox"/> 53' Container

Set up packet must be emailed to vendors@cornerstone-systems.com or faxed to 901-271-7192

TERRITORY

USA

AL		MT	
AK		NC	
AR		ND	
AZ		NE	
CA		NH	
CO		NJ	
CT		NM	
DE		NV	
FL		NY	
GA		OH	
HI		OK	
IA		OR	
ID		PA	
IL		RI	
IN		SC	
KS		SD	
KY		TN	
LA		TX	
MA		UT	
MD		VA	
ME		VT	
MI		WA	
MN		WI	
MO		WV	
MS		WY	

Canada

AB	
BC	
MB	
NB	
NF	
NS	
NT	
NU	
ON	
PE	
PQ	
SK	
YT	

Mexico

Aguascalientes		Baja California	
Baja California Sur		Campeche	
Chiapas		Chihuahua	
Coahuila		Colima	
Distro Federal		Durango	
Estado De Mexico		Guanajuato	
Guerrero		Hidalgo	
Jalisco		Michoacan	
Morelos		Nayarit	
Nuevo Leon		Oaxoca	
Puebla		Queretaro	
Quintana Roo		San Luis Potosi	
Sinaloa		Sonora	
Tabasco		Tamaulipas	
Tlaxcala		Veracruz	
Yucatan		Zacatecas	



All rates, charges and special services must be submitted in writing to Cornerstone Systems via email, fax, or mail. If you change any rate(s), charge(s) or special service(s), you must provide us with written notice at least 30 days prior (reductions excluded) of your intent; without this prior notification changes will not be accepted. The rates you submit to Cornerstone will become part of the drayage-intermodal agreement.

You are also to provide us with the name and telephone number of your Pricing / Rate contact if different from the person this letter is being sent.

Notices of changes to the rates, accessorial charges and special services can be sent via one of the following methods, whereas dray rates are to be sent in via email in a Microsoft Excel format:

MAIL: Cornerstone Systems
Pricing Manager
3250 Players Club Parkway
Memphis, TN 38125

EMAIL: DrayRate@cornerstone-systems.com

All questions are to be directed to Rich Horstmann, Pricing Manager, Memphis, TN at 901-842-1243.

Sincerely,

Ronald C. MacDonald
Senior VP Marketing
Memphis, TN
901-842-0660