

BROKER/CARRIER AGREEMENT

THIS BROKER/CARRIER AGREEMENT (the "Agreement") is entered into this _____ day of _____, 20____, between New Prime, Inc., d/b/a Prime Logistics, a Nebraska corporation, with a principal place of business at 2740 N. Mayfair, Springfield, Missouri 65803 ("Broker") and _____, with a principal place of business located at _____ ("Carrier").

WHEREAS, Broker is engaged in the performance of freight brokerage services pursuant to authority granted by the Interstate Commerce Commission ("ICC") in license number MC-140665;

WHEREAS, Carrier is engaged in providing transportation of property as a contract carrier pursuant to motor carrier authority MC- _____, a copy of which is attached hereto as Appendix A;

WHEREAS, Broker desires to arrange for Carrier to provide transportation services on behalf of Broker's customers; and

WHEREAS, Carrier is ready, willing and able to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agreed as follows:

TERMS AND CONDITIONS

1. **SERVICES TO BE PERFORMED.** Broker agrees to arrange for shipment of freight on behalf of its customers and Carrier agrees to transport such freight by motor vehicle from and to such points between which service may be required, subject to available equipment.

2. **MINIMUM TENDER.** Broker agrees to offer a minimum of three (3) shipments per year and Carrier agrees to transport by motor vehicle from and to such points which service may be required, such quantities of authorized commodities as Broker may require, subject to Carrier's availability of suitable equipment.

3. **RATES AND PAYMENT.**

3.1 Rates. Broker will transmit to Carrier, via facsimile, a load confirmation via Qualcomm message and/or faxed confirmation sheet for each individual load that Carrier transports for Broker. The Confirmation Sheet will show the agreed amount for all charges associated with the relevant trip. Payment shall then be made to Carrier in accordance with "Schedule 1" of this agreement.

3.2 Payment. All bills from Carrier shall include an original signed Bill of Lading and all signed receipts incurred as agreed to per contract. Broker shall pay Carrier the agreed upon invoice amount within nine (9) business days after Broker has received the signed original Bill of Lading and signed receipts. Payment to Carrier shall be contingent upon submission of a Bill of Lading to which no exceptions have been taken. Broker may advance payment to carrier at its discretion.

3.3 Designation of Payee. Carrier agrees that all payments due to Carrier hereunder shall be made payable to:

Name

Address

City, State, Zip

Any change in such designation must be in writing.

4. LOSS, DAMAGE, OR DELAY.

Carrier shall be liable to Broker's Customer and, if applicable to Broker as the agent or assignee of a claim of Broker's customer, for loss, damage, or delay of a shipment transported by Carrier under the terms of this Agreement. Carrier's liability shall begin at the time the shipment is loaded on Carrier's equipment at origin, and continue until shipment is delivered to the designated consignee at destination. Carrier's liability shall be for the full invoice value of the shipment, in addition to any other losses or charges the Customer may suffer.

5. TERM/TERMINATION.

5.1 Term. The initial term of this Agreement shall be one (1) year commencing on the date of execution. This Agreement shall automatically renew thereafter for successive terms of one (1) year unless either party shall give the other party notice of termination as provided herein.

5.2 Termination. Either party may terminate this Agreement by providing at least thirty (30) days' advance written notice of intent to not renew prior to the expiration of the initial term of this Agreement or a successive term. This Agreement may also be terminated according to the following: (i) either party may terminate this Agreement, with or without cause, upon at least thirty (30) days' advance notice; or (ii) in the event of a material breach of this Agreement, the non-defaulting party may terminate this Agreement immediately upon written notice to the breaching party. Notwithstanding the termination of this Agreement, each party's representations, warranties, covenants and agreements shall survive such termination with respect to all

performance of this Agreement prior to the effective date of termination. Shipping requirements of Broker's customers are an essential part of Broker's business, and failure to adhere to such requirements may be deemed to be a material breach of this Agreement. Written notice pursuant to this clause may be satisfied by Qualcomm message.

5.3 **Return of Property.** In the event this Agreement is terminated by either party or upon the expiration of this Agreement, Carrier shall, within forty-eight (48) hours, return any of Broker's property to Broker at a location specifically designated by Broker. If Carrier shall fail to return Broker's property as provided herein, Carrier shall be responsible for all expenses incurred by Broker in securing the proper return of said property including reasonable attorneys' fees and disbursements. Such expenses may be charged back against any amounts owed Carrier by Broker.

6. **QUALCOMM.** Carrier's equipment must contain a Qualcomm unit, which will work in conjunction with Broker's Qualcomm system. If Carrier rents or purchases Qualcomm units from Broker, Carrier shall pay to Broker the amounts specified in Schedule 2 hereto as rental or purchase payments together with all monthly usage fees, including excess message charges paid by Broker on Carrier's behalf. Carrier is responsible for the timely return of any rented Qualcomm device upon the termination of this Agreement. If Carrier rents a Qualcomm unit from Broker, and if the unit is damaged or lost, Carrier agrees to reimburse Broker the entire cost incurred by Broker in repairing or replacing the unit. If the unit is not returned upon termination, Carrier agrees to reimburse Broker its costs incurred in replacing the unit and hereby authorizes Broker to deduct such costs from any amounts due Carrier hereunder. If funds are not available to do so, Carrier agrees to pay Broker its costs of collection including reasonable attorneys' fees.

7. **TRAILERS.** Carrier may elect to use Broker's trailers for the movement of freight under this agreement. If such an election is made, both parties acknowledge that the "Trailer license and Interchange Agreement" is hereby incorporated into this Brokerage Agreement by reference and its terms and conditions shall become an integral part of this Brokerage Agreement.

8. **FUEL CARD/EXPRESS CODES/TRIP EXPRESS CHARGE.** Carrier agrees that, in the event Carrier utilizes Broker's fuel card system and express code transaction system, Carrier will pay to Broker and hereby authorizes Broker to deduct from payment due Carrier hereunder an amount as set forth in Schedule 2.

9. **EXPENSES.** Carrier shall pay all operating and maintenance expenses in connection with the performance of its obligations hereunder, including but not limited to licenses, permits and authorizations required to perform its obligations hereunder and all fuel, fuel taxes, Federal Highway Use Taxes, tolls, ferries, detention, accessorial services, and tractor repairs.

10. ADDITIONAL DEDUCTIONS. From time to time, Carrier may purchase fuel, products or services, including repairs, which are charged to Broker subject to Broker's approval. When Carrier does so, Carrier hereby authorizes Broker to deduct from Carrier's payment due hereunder amounts equal to such charges. Carrier is never required to charge any amounts to Broker's account nor to make purchases from any vendor recommended by Broker. Further, if Carrier leases Carrier's tractor, Carrier may be required by Carrier's lessor to indemnify Carrier's lessor for claims arising out of Carrier's acts and omissions as well as those of Carrier's agents and employees, and to pay for loss or damage to Carrier's tractor. When Carrier's lease requires any such payments, Carrier hereby authorize Broker to deduct from Carrier's payment due hereunder amounts equal to such charges on behalf of the Lessor.

11. RATIFICATION OF DEDUCTIONS. In paragraphs 3, 4, 5.3, 6, 7, 8 and 10 of this Agreement, Broker may make certain advances to Carrier or on Carrier's behalf. Carrier agrees to allow Broker to make deductions from Carrier's payment due hereunder as reimbursement for those advances. Because those advances are not capable of determination at the time of the execution of this Agreement, they shall be disclosed to Carrier from time to time. To the extent Broker is required to disclose deductions to Carrier, that requirement regarding any such deductions shall be deemed fulfilled through Broker providing Carrier with a statement of such deductions. However, upon request, Broker will provide Carrier copies of those documents, which are necessary to determine the validity of the charge. Computation of each item shall be on the basis of the actual amount of each advance, charge or expense. If Carrier has not objected to any such deduction in writing within ninety (90) days of the date of the statement, the deductions shall be deemed ratified by Carrier.

12. SERVICES, PRODUCTS AND EQUIPMENT. Carrier shall not be required to purchase or rent any products, equipment or services from Broker as a condition of entering into this Agreement.

13. SET-OFF. Carrier hereby grants to Broker the right of immediate set off against Carrier's payment due hereunder of all amounts due from Carrier to Broker under the terms of this Agreement. Carrier further herein agrees that costs arising from late deliveries, claims or service failures may be offset from payment of loads with notification of such offset being made to Carrier.

14. DRIVERS. Carrier shall employ, on its own behalf, drivers for the Equipment. Carrier shall be solely responsible for payment of its employees wages, benefits, Social Security taxes, withholding taxes, unemployment insurance fees, workers' compensation insurance, and all amounts required by government laws, rules and regulations to be paid by employers on behalf of or to employees. All drivers employed by Carrier to operate the Equipment shall be qualified so as to meet all applicable requirements of all federal, state and local laws, rules and regulations including those of the Department of Transportation. Carrier shall likewise employ on its own behalf and at its own expense all driver's helpers and other laborers required to carry out the purpose of this Agreement.

15. INSURANCE. Carrier shall procure and maintain, at the sole cost and expense of Carrier, liability insurance with a reputable and financially responsible insurance carrier or carriers properly insuring Carrier against liability and claims (a) for injuries to persons (including injuries resulting in death), environmental restoration and property damage in a combined single limit of not less than two million dollars (\$2,000,000) per occurrence; (b) for loss or damage to freight while in custody, possession or control of Carrier in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000) per occurrence; and (c) any additional insurance as may be required by applicable laws, ordinances or governmental orders, rules and regulations, and shall furnish to Broker written certificates obtained from each insurance carrier showing that such insurance has been procured and is being properly maintained, and that the premiums therefore are paid, and specifying the name of the insurance carrier, the policy number or numbers, and the expiration date or dates. In the event of cancellation or material modification of any policy, written notice of such cancellation or modification shall be given to Broker at least thirty (30) days prior to such cancellation or modification as to each policy. Carrier agrees to name New Prime, Inc., as an additional insured on each of the aforementioned policies.

16. INDEMNITY AND HOLD HARMLESS. CARRIER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS BROKER, ITS AFFILIATED ENTITIES, THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES AND THEIR RESPECTIVE HEIRS, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, OBLIGATIONS, CAUSES OF ACTION AND LAWSUITS AND ALL DAMAGES, LIABILITIES, FINES, JUDGMENTS, PENALTIES, COSTS (INCLUDING THE PAYMENT OF ATTORNEYS' FEES AND DISBURSEMENTS), (SPECIFICALLY INCLUDING BROKER'S, ATTORNEYS' FEES AND DISBURSEMENTS REASONABLY NECESSARY TO SUCCESSFULLY ENFORCE THIS INDEMNIFICATION PROVISION AGAINST BROKER), ARISING OUT OF: (I) THE ACTS OR OMISSIONS OF CARRIER AND ITS AGENTS, REPRESENTATIVES, EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS AND/OR SUBCONTRACTORS; AND/OR (II) THE FAILURE OF CARRIER TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT. THE OBLIGATIONS TO INDEMNIFY AND HOLD HARMLESS CONTAINED HEREIN SHALL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE TERMINATION OF THIS AGREEMENT, WHETHER BY EXPIRATION OF TIME, BY OPERATION OF LAW, OR OTHERWISE. THE MINIMUM LIMITS OF INSURANCE PROVIDED FOR UNDER SECTION 15 OF THIS AGREEMENT DO NOT OPERATE AS A LIMITATION UPON CARRIER'S INDEMNIFICATION DUTIES UNDER THIS SECTION 15.

17. RESPONSIBILITY FOR COMPLIANCE WITH FEDERAL AND STATE LAW. Carrier shall comply with all laws, orders, rules, regulations, ordinances and other public requirements, including, but not limited to, local, state and federal transportation statutes, rules and regulations, applicable to its work and shall defend, indemnify, and hold harmless Broker, its affiliated entities, their officers, directors, shareholders, members, partners, agents, representatives, and employees and their

respective heirs, successors and assigns from and against any and all claims, demands, obligations, causes of action and lawsuits and all liabilities, fines, judgments, penalties, costs, expenses (including the payment of attorneys' fees and disbursements) and damages resulting from Carrier's failure to so comply.

Carrier herein acknowledges that it is familiar with the Federal Motor Carrier Safety Regulation (F.M.C.S.R) and will strictly adhere to and comply with same. Specifically, Carrier acknowledges that it will maintain strict compliance with the Hours of Serviced Regulations as set forth in the F.M.C.S.R.

18. MILEAGE. Mileage is based on the latest version of the Household Goods Carrier's Bureau Mileage Guide, unless otherwise specified by Broker's customers.

19. NOTICES. Any notice required or permitted to be given to a party under the terms of this Agreement shall be in writing and shall be deemed given only if (i) personally served upon the party receiving notice including, but not limited to, via a receipted overnight courier service; or (ii) mailed by certified or registered United States mail, postage prepaid, return receipt requested; or (iii) sent via facsimile and receipt is acknowledged by a signed return facsimile; AND (iv) addressed as follows:

Broker: Prime Logistics
Attention: Rick Gallagher, Director Prime Logistics
2740 N. Mayfair
Springfield, Missouri 65803
Fax: 417/521-6876

Carrier: _____
Name

Address

City, State, Zip

Fax

Each party may, by written notice given to the other in accordance with this Agreement, change the address to which notices to such party are to be delivered.

20. RELATIONSHIP OF PARTIES. The parties intend to create by this Agreement the relationship of Broker and Independent Contract Carrier and not an employer/employee relationship. Carrier is and shall be deemed for all purposes to be an Independent Contractor, not an employee of Broker. Neither Carrier nor Carrier's employees, agents or servants, if any, are to be considered employees of Broker at any time, under any circumstance or for any purpose.

21. ASSIGNMENT. Carrier shall not assign this Agreement or any rights or obligations hereunder to anyone without the written consent of Broker. Carrier shall not broker freight tenders under this Agreement with out written consent of Broker.

22. BACK SOLICITATION. Carrier herein agrees not to directly or indirectly solicit any customer of Broker where the availability of such freight first became known to carrier through Broker's effort or where the freight was first tendered to Carrier from Broker. In the event Carrier breaches this back solicitation provision of this Agreement. Broker shall be entitled to a fee or conversion equal to fifteen percent (15%) of the gross revenue resulting from such Customer. Carrier further agrees to reimburse Broker for all costs incurred, including attorney fees, by Broker in enforcing this provision.

23. MODIFICATION OF SCHEDULES. From time to time during the term of this Agreement amounts elected to purchase insurance from a Broker affiliate or through Broker, lease or purchase payments, reserve account elections, Qualcomm user fees and other like items may be changed from those amounts set forth on the Schedules attached hereto by the person making such charges. In such event, Broker shall notify Carrier in writing of such change. Unless Carrier instructs Broker in writing to the contrary within ten (10) days of the date of Broker's notice to Carrier, the appropriate Schedule shall be deemed modified to reflect the new amount being charged and the Schedule shall be deemed by the parties as being amended accordingly.

24. GOVERNING LAW AND ARBITRATION. This Agreement shall be governed by the laws of the State of Missouri. Any dispute arising out of or relating to this Agreement, including an allegation of breach thereof, and the rights and obligations of the parties, shall be fully resolved by arbitration in accordance with Missouri's arbitration act and except as provided herein the Commercial Arbitration Rules of the American Arbitration Association (the "Rules") shall apply. In the event of conflict between the Rules and the provisions of this Agreement, the provisions of this Agreement shall control. Exceptions/clarifications of the Rules include: (i) the proceedings shall be conducted by a single, neutral arbitrator to be selected by the parties, or failing that, appointed in accordance with the Rules, (ii) the substantive law of the State of Missouri shall apply, and (iii) the award shall be conclusive and binding. A Demand for Arbitration shall be filed not later than one (1) year after the dispute arises or the claim accrues, and failure to file said Demand within the one (1) year period shall be deemed a full waiver of the claim. The place of arbitration herein shall be Springfield, Missouri. Both parties agree to be fully and finally bound by arbitration award, and judgment may be entered on the award in any court having jurisdiction thereof.

25. FORCE MAJEURE. Neither Broker nor Carrier will be liable for the failure, delay or other omission to tender or timely transport freight under this Agreement if such failure, delay or other omission is caused, hindered, or prevented directly or indirectly by war, conditions of war, strikes, lock-outs, fires, floods, cyclones, accidents, or other agencies or acts of God, failure to secure raw materials, or any other cause beyond their control whether of the same kind or not.

26. NON-WAIVER. The failure of any party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

27. ATTORNEYS' FEES. In the event it becomes necessary to commence a lawsuit to enforce or otherwise give effect to the terms of this Agreement, the prevailing party by reason of a final decision by an arbiter, judge or jury shall be entitled to recover from the other party reasonable attorneys' fees and disbursements actually incurred.

28. SEVERABILITY. If any term or provision of this Agreement is invalid or unenforceable under any statute, regulation, ordinance, order or other rule of law, that term or provision shall be deemed modified or deleted, but only to the extent necessary to comply with the statute, regulation, ordinance, order or rule, and the remaining provisions of this Agreement shall remain in full force and effect.

29. ENTIRE AGREEMENT. This Agreement shall be comprised of this document executed below by Carrier and Broker as well as all Schedules executed by Carrier (as amended from time to time as herein provided) and Addendums hereto, if any, executed by the parties hereto. This Agreement, the Schedules and Addendums constitute the entire agreement and understanding between the parties in relation to the subject matter hereof and cancel and supersede all previous negotiations and contracts between the parties relating to the subject matter hereof. Any modification to this Agreement must be in writing and signed by both parties or, in the case of the Schedules and Addendums, as otherwise herein provided.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the day and year first above written.

**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION,
WHICH MAY BE ENFORCED BY THE PARTIES.**

New Prime, Inc.
Prime Logistics

By: _____
Title: _____

"Broker"

Name: _____

By: _____
Title: _____

"Carrier"

BROKER/CARRIER AGREEMENT

SCHEDULE 1

PAYMENT

Payments made to Carrier by Broker under Section 3 of the Agreement shall be as follows:

PERCENTAGE OF REVENUE. Broker shall pay Carrier seventy-seven percent (77%) of the line haul revenue received by Broker for freight transported by Carrier. The phrase "line haul revenue" means all amounts paid by Broker's customers for transportation of freight exclusive of accessorial charges. Accessorial charges are charges made by Carrier for goods and services in addition to freight transportation, including but not limited to such things as loading and unloading, special permits, pallets, tarp fees and shag fees. Not all accessorial charges will be designated by the customer as separate from the "line haul revenue", but shall be itemized by Broker on the freight bill as a separate charge and for purposes of this paragraph shall not be included in the "line haul revenue". Examples are the following charges that shall be deducted from "line haul revenue" when determining payment to Carrier: (i) all pallets that are not provided or paid for by the customer shall be charged at \$5.00 per pallet per load; (ii) all amounts paid by Carrier or a third party for loading and unloading in excess of that paid by the customer; and (iii) all amounts paid by Carrier or a third party for tarp and shag fees in excess of that paid by the customer. In addition, Broker shall make surcharges to some customers for fuel. When these surcharges are made, they shall be so designated on the applicable freight bill and itemized as a separate charge. For purposes of this paragraph, such fuel charges shall not be included in the "line haul revenue".

New Prime, Inc.
Prime Logistics

By: _____
Title: _____
Date: _____

"Broker"

Name: _____
By: _____
Title: _____
Date: _____

"Carrier"

CARRIER/BROKER AGREEMENT
SCHEDULE 2

Equipment:

Year _____ Make _____ Vin Number _____

Leased From: _____

Purchased From: _____

Fuel Tank Size: _____ x 2

Qualcomm Deposit:

\$3,000.00 per truck. \$100.00 minimum weekly payments up to \$3,000.00.

(a) Deposit for Carriers with fleets of 30 or more trucks. \$1,500.00 per truck.

\$100.00 minimum weekly payments up to \$1,000.00.

Qualcomm:

I _____ hereby elect to lease a qualcomm unit, MCT # _____
from Prime Inc for the sum of \$27.91 per week.

**CARRIER HEREBY REQUESTS AND AUTHORIZES BROKER TO MAKE
THE ABOVE PAYMENTS THROUGH DEDUCTIONS FROM PAYMENTS DUE
CARRIER HEREUNDER.**

Name: _____

By: _____

Title: _____

“Carrier”

CARRIER/BROKER AGREEMENT
SCHEDULE 2

Carrier hereby authorizes Broker to deduct the following amounts from payments due Carrier to be applied to the accounts as indicated during the term of this Agreement.

Account	Amount	Schedule	Initial
Charge Transaction (2)	\$1.25	Per Occurance	_____
Fuel Card (2)	\$1.00	Per Week	_____
Express Code (2)	\$3.50	Per Occurrence	_____
Trip Pack (6)	\$5.12	Per Occurrence	_____
Trip Imaging Service (6)	\$5.50	Per Week	_____
Overnight Mail Service (1)	\$_____		
Qualcomm Rental and Excess Messages (5)			

Name

By: _____

Title: _____

"Carrier"

Notes:

- (1) Actual cost.
- (2) Administration fee charged by Broker.
- (3) Actual premium charged by agent or broker.
- (4) Actual cost, reconciled monthly.
- (5) Fee charged by Broker.
- (6) Fee charged by Broker, includes administrative Fees.

In the event there are not sufficient funds available from payments due Carrier hereunder to make the above deductions, Carrier agrees that Broker is under no obligation to make such deductions even though defaults in Carrier's obligations might occur. Broker may make deductions from payments due Carrier hereunder to set-off against all amounts due Broker under the terms of the Agreement. This Schedule shall

be modified from time to time as provided in Section 11 of the Agreement. Carrier shall be afforded copies of documents to verify the validity of any deduction under this Schedule 2. upon request.

Name

By: _____

Title: _____

“Carrier”

ADDENDUM TO BROKER/CARRIER AGREEMENT

THIS ADDENDUM TO BROKER/CARRIER AGREEMENT is made and entered into this ___ day of _____, 20 ____, by and between NEW PRIME, INC. ("Broker") and _____, ("Carrier") for the specific purpose of amending and supplementing the Broker/Carrier Agreement Broker and Carrier dated the _____ day of _____, 20 ____, (the "Agreement").

NOW THEREFORE, in consideration of the mutual covenants contained in the Agreement and the additional mutual covenants herein contained and for other good and valuable consideration, it is hereby agreed as follows:

A. From time to time from the above date forward, Broker may in its discretion provide Carrier with financial benefits, which it is not obligated to provide under the Agreement. These benefits may be in the form of, among other things, payment of a fuel surcharge, downtime, agent or brokerage fees, motel payments or reimbursements, layover pay, and detention. In addition, Broker in its discretion may charge Carrier less than the amount provided in the Agreement for cargo claims, trailer damage and liability claims. All of such benefits identified in this paragraph A. shall be referred to herein as "Contingent Obligations."

B. Carrier agrees that the Contingent Obligations are true and valid obligations of Carrier to Broker for the limited purpose set forth in this Addendum. With regard to the Contingent Obligations, Carrier agrees that Broker shall be entitled to repayment of all such amounts only as a set-of or recoupment to any damages that Carrier may claim or that another person may claim on Carrier's behalf in any lawsuit, charge, administrative proceeding, arbitration, mediation, or other claim.

NEW PRIME, INC. D/B/A PRIME, INC.

By: _____
Title: _____

"Broker"

Name: _____

By: _____
Title: _____

"Carrier"