



EXPRESS SYSTEM INTERMODAL, INC.

TRANSPORTATION AGREEMENT

This agreement is between Express System Intermodal, Inc. (ESI) and _____
(Customer).

RECITALS

Customer and ESI desire to receive and supply respectively rail transportation and related services in accordance with the terms and conditions hereinafter set forth.

AGREEMENT

1. Term of agreement

This agreement shall become effective _____ and shall continue in effect until terminated by either party upon the giving of not less than thirty days written notice of intent to terminate. In the event of termination, both parties shall be obligated to complete all required performances with regard to containers tendered for movement prior to delivery of the notice of termination.

2. Charges for Transportation Services

Customer shall pay ESI the rates and charges set forth in ESI's international and domestic rate sheets, which are attached hereto as **Exhibit A**, and revised periodically by ESI or by mutual agreement.

3. Definition of International/Domestic Traffic

International traffic is that traffic originating or terminating in countries other than the United States, Mexico and Canada and is that traffic that moves directly from or to an ocean carrier's dock or container freight station facility or from an ocean carrier's dock facility for immediate transfer into a rail or private trailer or to a transload facility for immediate movement to ocean carrier's dock facility. Shipments which are warehoused, processed, repackaged, etc. will not be considered international traffic and will be considered as domestic traffic and must move under domestic rate schedules. Shipments from or to Hawaii, Puerto Rico and Guam will be considered international traffic.

4. ESI Billing and Operating Requirements

Billing information must be received by the designated ESI office prior to gate arrival of container at the rail ramp and must contain all the information as required in the ESI Billing Instructions (**Exhibit B**). If billing information is not received by ESI prior to gate arrival of container at the rail ramp, Customer shall be responsible for any origin storage, charges and fees that are levied by the Railroads or Drayman.

Once billing is accepted, it may only be changed in writing. However, once units have departed cancellations will not be granted.

5. Free Time

Originating on All Rail Lines:

No free time. Billing must be in place prior to gate arrival. Containers that may be allowed to ingate without billing in place must be billed within 24 hours. After 24 hours Customer is responsible for storage charges.

Destination

Free time will be provided in applicable rail carriers governing circular.

6. Storage Charges

Origin:

ESI will bill Customer all applicable storage charges in accordance with rail carriers governing circular.

Destination:

Railroad requires payment of all applicable storage charges in accordance with rail carriers governing circular. Rail storage charges normally must be paid or guaranteed prior to cargo release at destination. These charges will be the responsibility of the party performing the pick-up.

7. Credit and Payment Obligations

Prior to tendering its containers to ESI, Customer shall submit a credit application (**Exhibit C**) to ESI, which shall determine the terms, conditions and amount of credit, if any, that it will extend to Customer.

In connection with Customer's application for credit, Customer shall make available to ESI financial data demonstrating Customer's creditworthiness, including, without limitation, Dunn & Bradstreet reports, bank and other financial statements, and/or tax return for prior years. As a condition to the renewal or continuation of Customer's credit, Customer shall provide ESI with updated financial statements and records, and, at ESI's sole option, an irrevocable letter of credit or similar guarantee of Customer's credit.

If Customer's application for credit has been approved, Customer shall have **21 days** from the date of ESI's invoice to make payment to ESI, unless otherwise agreed in writing. In response to ESI's claim that it has not been timely paid by Customer, it shall not be a valid defense on Customer's part that Customer has not been paid by its beneficial owner Customer, it being understood by the parties that Customer is responsible for paying all freight charges incurred hereunder.

If Customer's application for credit has been denied for any reason, ESI will perform transportation services on a CASH basis. This means that if you choose to route your shipments through Express System Intermodal, we would need to receive payment before we would notify the destination drayman of the container's ramp arrival. Please be aware that if payment is not received, the container will not be released and any storage charges that accrue will be for the account of the Customer.

8. Disputed Charges

In the event that Customer disputes an ESI invoice, Customer shall notify ESI in writing within 21 days of the date of invoice detailing the reason(s) that it disputes the amount or the basis for the charge. Within 21 days of invoice, Customer shall pay all ESI charges that are not expressly disputed. Invoiced charges that are not formally disputed by Customer shall be paid without offset or counterclaim. If the parties cannot agree on a resolution of disputed charges, such disputes shall be resolved by way of binding arbitration pursuant to Section 20.

9. Late Charges and ESI's Collection of Unpaid Freight Charges

Undisputed charges which remain unpaid after 21 days from the date of ESI's invoice shall be subject to a late payment charge at the rate of 18 percent per annum, or the maximum rate permitted by law, if less than 18 percent. The parties agree that this late charge reasonably approximates the additional clerical costs incurred by ESI to process collection of its late-paid invoices.

Notwithstanding the arbitration provision of this agreement, ESI shall have the right to bring a lawsuit against Customer in an Illinois court of general jurisdiction to recover any unpaid freight charges that are not timely disputed

by Customer in accordance with Section 4 above. In any such collection lawsuit, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs of litigation.

10. Damage to Customer's or Beneficial Owner's Freight

ESI shall be responsible to Customer or its beneficial owner Customers for all freight loss or damage proximately resulting from ESI's negligent acts or omissions provided; however, that ESI shall not be liable for freight loss or damage proximately resulting from (i) an Act of God, (ii) the public enemy, (iii) authorized acts of governmental agencies/entities, or (iv) negligent or intentional acts of Customer, the beneficial owner, the consignee, or the consignor. In the absence of ESI negligence, Customer's (or its beneficial owner Customers') sole remedy for freight loss or damage shall be against the underlying rail and/or motor carriers pursuant to the terms and conditions of their relevant tariffs, circulars, contract or other publications relating to liability for loss of or damage to freight. With or without fault on its part, ESI will reasonably assist and cooperate with Customer and its beneficial owner Customers to investigate and process any freight loss or damage claims against the underlying carriers.

Any claim against ESI for freight damage shall be made in writing within three months of the shipment date, and any claim for freight loss or shortage shall be made in writing within 15 days of shipment. Any arbitration action against ESI for freight loss or damage shall be instituted within one year of the shipment date. Any claim or action against underlying carrier(s) shall be made in accordance with the time requirements set forth in their relevant tariffs, circulars, or publications.

Liability for loss and damage to the lading in any container shall be limited to no more than \$200,000 per container as measured by fair-market value. Shipment with a value per container in excess of \$200,000 must be declared in writing to ESI prior to acceptance for transportation and a rate will be established for the container movement. Claim or suits for less than \$50.00 shall not be paid if the amount found is less than \$50.00 per container. The claimant shall be under a duty to take all reasonable steps to mitigate its damages, including using salvage procedures.

11. ESI's Container Equipment

ESI shall make its best effort, but does not guarantee, to provide empty container equipment for Customer's use, if any is available, at locations mutually agreed upon by the parties. ESI reserves the right to refuse Customer's request for equipment if the Customer is in default of its payment or other obligations under this agreement.

12. Furnishing Chassis or Other Suitable Equipment

Ramp to Ramp:

On ramp to ramp movements, it is the responsibility of the Customer to arrange for proper chassis placement. This may include pre-placement of the chassis at the rail ramp, flip charges from neutral chassis or yard chassis to the drayman chassis and chassis termination. Any costs associated with the above is not covered by the ESI rate. Additionally, in order to assist the railroad in matching the proper chassis to the Customers container, Customer must identify the party who will supply the chassis at the destination ramp.

ESI Pick-up or Delivery:

When ESI is to perform the pick-up at origin or delivery at destination, the quoted rate will cover all drayage and associated chassis use charges, unless specifically stated otherwise on the written ESI rate quotation.

ESI Domestic Rates:

When Customer is using ESI supplied equipment for domestic shipments, ESI will arrange for chassis use at origin and destination at no additional charges, unless specifically stated otherwise on the written ESI rate quotation.

13. Governing Publications

Rules, regulations, services and charges not otherwise provided for in these general rules will be governed by each rail carriers own applicable circular.

14. Confidentiality

Customer agrees that the terms and conditions of this agreement and attached Exhibits shall be held in strict confidence and not disclosed to any person, other than the beneficial owner of Customers, without the written permission of ESI. ESI agrees not to disclose to non-signatories to this agreement, except for ESI's railroad vendors, confidential information (such as name of consignee or consignor, commodity, number of containers, and origin or destination) concerning the freight consigned by Customer to ESI's trains, and ESI shall take responsibility for ensuring, that its railroad vendors keep the foregoing information in strictest confidence, accessible to only their personnel with a demonstrable "need to know", and only for their own internal use.

15. No Performance Guarantees

ESI shall use its best efforts to secure on-time scheduled performance from its underlying rail and motor carriers in connection with the movement of Customer's freight. Customer shall have no right, claim or cause of action against ESI resulting from the failure if ESI's rail or motor carriers' service to meet their published or promised schedules.

16. Compliance

Customer shall be responsible: (I) to work with its beneficial owner Customer to ensure that the owner's freight is in compliance with all state and federal weight requirements relating to the movement of containers and trailers on streets and highways; (ii) to advise and assist the beneficial owner in obtaining circulars, diagram, bulletins, etc., published and distributed by ESI's rail carriers and/or the Association of American Railroads describing proper freight loading, blocking and bracing procedures; (iii) to ensure that the beneficial owner is properly instructed with regard to international federal and state regulations governing the handling, loading, documenting and placarding of dangerous and/or hazardous materials being transported in the U.S. (e.g., 49 USC SS1803, 1804, and 1808; 49 CFR SS 171, 172, 1173, and 176; IMO International Maritime Dangerous Goods Code).

17. Liability

Liability only for damage of containers and chassis while in ESI possession shall be settled in accordance with the provisions of the Association of American Railroads (AAR) interchange rules for trailer/container-on-flatcar (TOFC/COFC) service as formulated and promulgated by the AAR's operations and maintenance department and as supplemented (AAR interchange rules) regardless of whether the parties are signatories to the AAR interchange rules. For purposes of agreement, ESI will not be responsible for equipment and/or lading damage which results from faulty loading equipment should loading of container not properly be distributed, secured and blocked to permit safe movement by rail.

18. Hazardous Cargo

In the event a container contains hazardous cargo, Customer must certify that all appropriate federal regulations governing the transportation of such hazardous materials, including, but not limited to regulations concerning loading of cargo in containers, blocking and bracing, placarding, commodity mix and commodity packaging. Failure to comply with such regulations shall make Customer liable for all loss or damage sustained by ESI, its employees, or by third parties resulting in whole or in part from such failure to comply. Customer shall further indemnify and hold harmless ESI from the cost of any spill, response, mitigation, clean-up and ultimate disposal expense resulting from such failure to comply.

Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from railroads premises due to the causes set forth in this section, Customer, at its expense, shall be obligated to clean the premises to the satisfaction of railroad and any governmental body having jurisdiction thereover.

Customer agrees to indemnify, hold harmless and defend ESI against all liability, cost and expense (including without limitation any fines, penalties, judgments, litigation costs and attorney's fees) incurred by ESI as a result of

Customers breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost or expense arises during or after the contract of carriage between ESI and Customer except to the extent that such liability, cost or expense is proximately caused by the active negligence of ESI or railroad. Customer shall pay all amounts due ESI under this rule within thirty (30) days after such amounts become due.

Additionally, effective January 1, 1991, the following requirements must be met by all Customers of hazardous cargo:

49 CFR 172.604(A)

A person who offers a hazardous material for transportation must provide a 24-hour emergency response telephone number (including the area code or international access code) for use in the event of an emergency involving the hazardous material. The telephone number must be:

1. Monitored at all times.

The number of a person who is knowledgeable of the hazards and characteristics of the hazardous material being shipped, has comprehensive emergency response accident mitigation information for that material or has immediate access to a person who possess such knowledge and information.

19. Restricted and Embargoed Commodities

Containers containing the following commodities may not move as FAK (Freight of all Kinds):

Restricted Commodities:

1. New automobiles, set up, unless by mutual agreement
2. Cargo requiring protection against heat or cold (may be moved under rules as may be mutually agreed)
3. Materials designated Class A or Class B explosives by U.S. Department of Transportation Hazardous Materials Regulations, Title 49 Code of Federal Regulations (restrictions not to apply on common fireworks)
4. Waste materials, hazardous, having no reclamation value as described in 261 title 40 Code of Federal Regulations unless prior written approval has been obtained from the superintendent of hazardous materials control
5. ISO tank containers - loaded or empty on stack trains (can move on conventional trains at conventional rate)
6. Personal effects or household goods (requires specific rate quotations)
7. Hazardous Cargo (requires specific rate quotations)
8. Coiled Metal Products (requires specific rate quotations)

Embargoed Commodities:

1. Any living creature
2. Articles described under Rule 30 of UFC (except U.S. Mail)
3. Missile, guided or rockets, guides, guidance systems or electronic guidance control apparatus for installation in missiles or in missile sections; missile or rocket assemblies containing electronic apparatus or mobile missile guidance control systems, as described in items 69093 of UFC
4. Domestic United States mail of any class

20. Arbitration

The parties agree that any and all disputes arising under or in connection with this agreement or any of its terms or provisions, with the sole exception of Section 7 to collect undisputed freight charges from Customer, whether with respect to enforcement, breach, or interpretation hereof, shall be resolved by final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Disputes shall be decided by a panel of three arbitrators with knowledge and experience in the transportation industry, although the

parties may agree to use only one mutually acceptable arbitrator. In selecting an arbitration panel, each party shall select one arbitrator, and the two arbitrators shall jointly select the third. The sole right of the arbitrator(s) shall be to endorse or interpret the terms of this agreement, and not to expand the right or obligations of the parties beyond its express terms.

Any such dispute shall be (i) heard by the arbitrators within 60 days of their selection; (ii) decided within 30 days after all evidence and legal arguments have been presented to the arbitrators; (iii) decided pursuant to Illinois and federal law; and (iv) convened at a mutually agreeable location in Illinois, unless the parties agree to hold it elsewhere.

The prevailing party in any dispute decided under this Section shall be limited to actual, out-of-pocket losses or damages, and neither consequential nor punitive damages shall be recoverable by either party. The prevailing party shall be entitled to recover reasonable attorneys', accountants' and expert witness fees, plus reasonable discovery, travel and court/arbitration expenses.

21. Indemnification

Customer shall indemnify and hold ESI harmless with respect to any claim, lawsuit, loss, damage or expense whatsoever which ESI may sustain or incur or become liable or as a result of any act or acts or failure or failures to act of Customer, its agents, servants, employees or Customer's beneficial owner. If any action shall be instituted against ESI with respect to any claim or occurrence for which Customer is obligated to indemnify and hold ESI harmless from, Customer shall defend the same on behalf of ESI, a Customer's expense, by counsel satisfactory to ESI.

22. Force Majeure

If, and to the extent that either party may be precluded from performing its duties and obligations under this agreement as the result of an act of God, authority of law, derailment or other rail or motor carrier accident, strike/lockout/labor dispute, or other cause beyond its control to which it has not contributed, such non-performing party shall be excused to the extent that its performance continues to be precluded by such act or cause. The party claiming force majeure shall have the burden of proof on that issue.

23. Entirety, Amendment and Severability

This agreement comprises the entire agreement between the parties. All amendments, supplements, modifications to, and waiver of the terms of this agreement shall be in writing and signed by the parties.

If any part of this agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality, or enforceability of any other part of this agreement, and the remaining parts of this agreement shall be enforced as if such invalid, illegal, and unenforceable party were not contained herein.

24. Assignment

This agreement shall inure to the benefit of and be binding upon the heirs, administrators, executors, successors, trustees and assigns of the parties hereto, but shall not be assigned or transferred in whole or in part by Customer without the prior written consent of ESI which shall not be unreasonably withheld and without an express assumption by such assignee or transferee of all past, present, and future obligations of this agreement. No assignment or transfer shall be effective until all defaults under this agreement have been cured.

25. Non waiver

The failure to enforce any provision of this agreement shall not be construed as a waiver of that provision.

26. Notices

All written notices to be provided hereunder shall be delivered to the other party by U.S. Postal Service, Express Mail, Federal Express or other established courier service, telecopy, facsimile or like wire delivery, or any other commercially reasonable and accepted form of delivery, to the following addresses:

To ESI:
Express System Intermodal, Inc.
8700 W. Bryn Mawr, Suite #410N
Chicago, IL 60631
Fax (773) 714-2060 and (773) 693-3660

To Customer:

Customer's signature below indicates acceptance of the above mentioned Transportation agreement.

Express System Intermodal, Inc.

Customer: _____
Print Name

By: J.R. Thronton, Managing Director

Signature: _____