

BROKER/CARRIER AGREEMENT

THIS AGREEMENT is made and entered into on _____, 20____, by and between VIEWDIA, LLC (“BROKER”) and _____ (“CARRIER”), (individually, a “PARTY”, and collectively, the “PARTIES”).

I.

Recitals

A. **WHEREAS** BROKER is licensed as a property broker by the Federal Motor Carrier Safety Administration (“FMCSA”), or by appropriate State agencies, and as a licensed broker, arranges for freight transportation; and

B. **WHEREAS** CARRIER is authorized to transport property in inter-provincial, interstate and/or intrastate commerce and is qualified, competent and available to provide for the transportation services required by BROKER; and

NOW THEREFORE, intending to be legally bound, BROKER and CARRIER agree as follows:

II.

Agreement

1. **TERM AND TERMINATION.** The Term of this Agreement shall be for one (1) year from the date first set forth above and shall automatically renew for successive one (1) year periods; provided, however, either PARTY may terminate this Agreement at any time by giving thirty (30) days prior written notice to the other PARTY.

2. **CARRIER’S OPERATING AUTHORITY AND COMPLIANCE WITH LAW.** CARRIER represents and warrants that it is duly and legally qualified in accordance with all applicable federal, state, provincial, territorial, and local laws, statutes, regulations, rules, and ordinances (collectively, “Applicable Law”) to provide, as a contract carrier, the transportation services contemplated herein. CARRIER warrants that it does not and will not have a “conditional” or an “unsatisfactory” or analogous safety rating issued by any regulatory authority with jurisdiction over CARRIER’s operations, including, but not limited to, the FMCSA of the U.S. Department of Transportation (“DOT”). CARRIER shall comply at all times with all Applicable Law in the performance of its services under this Agreement. In the event that CARRIER receives a “conditional” or an “unsatisfactory” or analogous safety rating, is notified that it may receive a “conditional” or an “unsatisfactory” or unfit safety rating, fails to maintain insurance required hereunder, is notified that such insurance may become ineffective or is otherwise prohibited by Applicable Law from performing services hereunder, CARRIER shall immediately notify BROKER and shall not perform any services for BROKER until such prohibition on operations is removed. In the event of insolvency proceedings being instituted by or against CARRIER, then BROKER, any agent of BROKER, or Customer (as defined below) may immediately enter upon any owned or leased property of CARRIER where any cargo, goods, Customer-owned equipment, or Customer-leased equipment may be found, and take possession of such goods or owned or leased equipment without notice or liability to CARRIER. CARRIER shall be solely responsible for its day-to-day operations including, but not limited to, setting appropriate routes to ensure that shipments are transported in accordance with all Applicable Laws and to otherwise ensure shipments are not damaged or lost in transit.

3. **CARRIER’S SERVICES AND OPERATIONS.**

- (a) CARRIER has sole control over the method, manner and means of accomplishing CARRIER’s services. CARRIER or its driver is responsible for determining the appropriate route for transportation. Any route directions provided by BROKER to CARRIER are provided as a convenience only and CARRIER is not obligated to follow such routing directions.
- (b) CARRIER’s services under this Agreement are designed to meet the needs of BROKER under the specified rates and conditions set forth herein. CARRIER agrees that the terms and conditions of this Agreement apply to and govern all shipments transported by CARRIER for BROKER and that the terms of this Agreement control the relationship between the PARTIES. In no event shall any provisions of

CARRIER's tariff, terms and conditions, service guide, bill of lading, or similar documentation apply to services provided under this Agreement.

- (c) CARRIER shall transport all shipments provided under this Agreement without delay, and all occurrences which would be probable or certain to cause delay shall be immediately communicated to BROKER by CARRIER. This Agreement does not grant CARRIER an exclusive right to perform any transportation related services for BROKER or the entity that has retained BROKER (hereinafter, the "Customer"). BROKER does not guarantee any specific number of shipments, tonnage, or revenue to CARRIER. BROKER is not restricted against tendering its freight to other carriers; CARRIER is not restricted against performing transportation for other brokers and/or shippers.
- (d) CARRIER shall, at its sole cost and expense (i) furnish all equipment necessary or required for the performance of its obligations hereunder (the "Equipment"); (ii) pay all expenses related, in any way, with the use and operation of the Equipment; (iii) maintain the Equipment in good repair, mechanical condition and appearance; and (iv) maintain records of Equipment use which will be provided to BROKER upon request.
- (e) Any Equipment used by CARRIER to transport cargo pursuant to this Agreement shall be used exclusively for such purpose while loaded with Customer cargo, and in no event will property of any other party be loaded on such Equipment unless BROKER expressly consents thereto in writing.
- (f) CARRIER is responsible for ensuring that all freight is properly blocked and braced for transportation to allow for the safe and damage-free delivery of the shipment and to avoid damage to other property.
- (g) CARRIER is responsible for determining that the goods to be shipped are in apparent good order and condition, to the extent that is ascertainable through a visual examination of the exterior of the goods to be shipped, before loading. If CARRIER determines the goods to be shipped as not being in apparent good order and condition before loading, CARRIER shall contact BROKER for further instructions.
- (h) CARRIER (i) is responsible for all acts and omissions of each of its employees, agents, representatives, contractors, and subcontractors and shall utilize only competent and able personnel that are legally licensed in accordance with all Applicable Law to perform the services hereunder; (ii) will not use any driver if the driver's license issued to the driver would not be able to be legally issued at the time Carrier requests the driver to perform services pursuant to this Agreement; (iii) shall have full control of any personnel used in the provision of motor carrier services hereunder, and will be solely responsible for the selection and qualification of such personnel; (iv) shall be solely responsible for ensuring, at CARRIER's cost and expense, that such personnel are fully qualified to perform services hereunder, and have access to all locations into which access is necessary to perform services under this Agreement; (v) shall ensure that any personnel providing services have sufficient hours available to complete scheduled deliveries in accordance with, and without violation of, applicable hours of service regulations; and (vi) be solely responsible for determining whether scheduled services can be completed without violation of Applicable Law, and if services cannot be completed without violation of Applicable Law, shall notify BROKER prior to acceptance of load.
- (i) CARRIER shall perform the services hereunder as an independent contractor, and assumes complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the transportation performed hereunder.
- (j) With respect to CARRIER's general business operations, CARRIER represents and warrants, as well as agrees to provide BROKER, upon BROKER's request, all necessary supporting documents, information, and materials necessary to confirm, the following:
 - i. CARRIER's operations and services are free from any direction and control by BROKER with respect to the performance of the work.

- ii. CARRIER's performance of services is in response to BROKER's request and directly performed for BROKER. CARRIER does not provide any motor carrier services directly for any of BROKER's Customers.
 - iii. CARRIER has obtained, and shall maintain at all times, any applicable license, permit, and/or tax registration, required by Applicable Law, necessary for CARRIER to operate its business.
 - iv. CARRIER maintains and operates out of its headquarters or other primary business location, located at the address identified in the signature block below.
 - v. CARRIER is customarily engaged in the business of providing for-hire motor carrier services to the public, including to property brokers. This business is independent from that of BROKER's.
 - vi. CARRIER provides motor carrier services for its own, separate clientele, including under separate motor carrier services agreements. CARRIER acknowledges and understands BROKER does not prohibit or otherwise restrict CARRIER's ability to provide services and engage in such business dealings with CARRIER's separate clientele.
 - vii. CARRIER actively advertises its motor carrier services and holds itself out to the public as an available for-hire motor carrier.
 - viii. CARRIER provides its own tools, vehicles, and all other equipment necessary to provide the services. Moreover, CARRIER determines its own hours of operations and business location(s).
 - ix. CARRIER negotiates its own rates and, with respect to this Agreement, has had the opportunity to negotiate rates with BROKER.
 - x. CARRIER is not performing the type of work for which a license is required by the California State License Board, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the California Business and Professions Code.
- (k) CARRIER represents and warrants that all port drayage services provided in California shall only be performed by CARRIER's employees or by bona fide independent contractors that possess independent motor carrier operating authority and satisfy the California legal standard for being determined to be an independent contractor. In addition to CARRIER's indemnity obligations set forth elsewhere in this Agreement, CARRIER shall be directly liable for any penalties, fines, or assessments incurred by BROKER, the shipper, consignee and Customer for CARRIER's failure to comply with the obligations in this paragraph, including but not limited to liability assessed under Cal. Labor Code § 2810.4.
- (l) With respect to transportation governed by regulations of the Food and Drug Administration ("FDA") codified at 21 C.F.R. Part 1.900, and regardless of whether such FDA regulations apply to CARRIER, CARRIER is responsible for the safety and sufficiency of all items used in the transportation of the goods, including all vehicles and Transportation Equipment as defined in such regulations. CARRIER is responsible for all sanitary conditions during transport. CARRIER must confirm the vehicle and Transportation Equipment: (i) is in appropriate physical condition to transport the goods tendered; (ii) is dry, leak proof, free of harmful or offensive odor, free from pest infestation and free from evidence of prior cargo that could render the shipment unsafe; and (iii) shall never have been used to transport any waste (whether hazardous or not), refuse, garbage, rodenticide, pesticide, or insecticide.
- (m) In the event CARRIER is requested to transport hazardous materials, CARRIER represents and warrants that it has obtained all necessary federal, state and provincial permits and registrations to transport

hazardous materials in inter-provincial, interstate and/or intrastate commerce. Upon request, CARRIER shall provide BROKER with a copy of all such federal and state permits and registrations. CARRIER warrants that: (i) it is in compliance with any and all applicable laws, rules and regulations applicable to such transportation, including, but not limited to 49 C.F.R. Parts 171-178; (ii) all drivers used to transport such shipments have undergone the necessary training requirements of all applicable state, provincial and federal laws; and (iii) all drivers used to transport hazardous material have the proper endorsements on their Commercial Driver's License (or such analogous operator permit as is applicable to such driver) to legally transport such shipments. CARRIER acknowledges and agrees that BROKER's sole obligation with respect to requesting services with respect to such shipments is to pass through information (including commodity descriptions and classifications) and documentation (including shipping papers) provided to BROKER by the Customer. BROKER shall have no obligation to independently verify the accuracy of such information or documentation.

- (n) BROKER's Customers require that BROKER provide real-time tracking of shipments while in transit and as such that BROKER may request or obtain GPS tracking information that would have the effect of tracking the location of CARRIER's driver. So as to allow BROKER to comply with Customer requests regarding shipment status, CARRIER shall provide contact information for any driver transporting cargo pursuant to this Agreement. CARRIER warrants that it is obtained driver consent to allow BROKER to perform such tracking and, where relevant, to share driver tracking information obtained by CARRIER with BROKER.
- (o) CARRIER understands and agrees that, while operating equipment at any time in California, CARRIER must comply with all applicable regulations promulgated by the California Air Resources Board ("CARB") in addition to any other applicable environmental or emissions laws in the State of California. CARRIER is responsible for understanding the applicable regulations. The below description is not intended to be, nor to be relied on as, a full description of the applicable legal requirements.
 - i. CARB Truck and Bus Regulation (Title 13, California Code of Regulations, Section 2025) ("TBR"): The TBR generally requires trucks operating in California to be equipped with 2010 or newer engine model years. Prior to CARRIER transporting any shipment subject to this Agreement that originates in, is destined for, or moves through California, CARRIER shall submit to BROKER evidence that it is in compliance with the TBR. This evidence shall be submitted annually by January 31st of each year thereafter during the term of this Agreement. Evidence of compliance shall include the following:
 - 1. A Certificate of Reported Compliance issued by CARB through reporting via the Truck Regulation Upload, Compliance, and Reporting System ("TRUCRS") ; or
 - 2. If CARRIER does not report via TRUCRS, a dated and signed written statement certifying that CARRIER is aware of its obligations under the TBR and provides engine model year information and any other information requested by BROKER about trucks to be used in operations in California.
 - ii. CARB Transportation Refrigeration Unit Airborne Toxic Control Measures Regulation (Title 13, California Code of Regulations, Section 2477 et seq.) ("TRU"): Motor carriers can only dispatch trucks and trailers equipped with trailer refrigeration units that are compliant with the TRU and/or are prohibited from operating non-compliant trailer refrigeration units in California. CARRIER shall, register all trailer refrigeration units to be operated in California and provide BROKER proof of such registration and compliance with the TRU.
 - iii. CARB Tractor-Trailer Greenhouse Gas Regulation (Title 13, California Code of Regulations, Section 95301 et seq.) ("GHG"): The GHG generally requires motor carriers to use aerodynamic tractors and trailers that are also equipped with low rolling-resistance tires when operating in California.

- iv. CARB Heavy-Duty Inspection and Maintenance Program (Title 13, California Code of Regulations, Section 2195 et seq.) (“Clean Truck Check”): The Clean Truck Check generally requires motor carriers to report their vehicles to CARB, pay a compliance fee, and submit to periodic emission testing. Carrier shall submit to BROKER evidence that it is in compliance with the Clean Truck Check regulation by submitting an Affirmation of Fleetwide Compliance from CARB at least once every 365 days.

CARRIER warrants that all equipment used to transport a shipment subject to this agreement and operated in California shall fully comply with such CARB laws. CARRIER shall maintain shipment-specific records evidencing such compliance, which records shall be made available to BROKER upon request. CARRIER shall also provide evidence of compliance as reasonably requested by BROKER.

CARRIER agrees to provide the following BROKER contact information to drivers it uses to transport shipments in California subject to this Agreement:

VIEWDIA, LLC
31445 Sunset Dr.
Beverly Hills, MI 48025
(888) 502-7156
carriers@viewdia.com

- (p) CARRIER is liable for, and bound by, the acts and omissions of any individual that purports to be working on behalf of CARRIER. Without limiting the generality of the foregoing: (i) If CARRIER is provided login credentials allowing access to information systems, applications or web portals maintained or otherwise made available by or on behalf of BROKER, CARRIER is solely responsible for any actions taken by any third party pursuant to any such credentials and CARRIER will ensure that only individuals with a need to access such systems in furtherance of CARRIER’s services to BROKER are provided with access to such login credentials; (ii) If the security of any email addresses or other credentials, whether provided by BROKER to CARRIER or by or on behalf of CARRIER to its personnel, are jeopardized in any manner, including being hacked or otherwise released to third parties, or if any individual to which CARRIER has assigned any such credentials is no longer employed or otherwise engaged by CARRIER, CARRIER will immediately notify BROKER and CARRIER will immediately disable any such credentials so as to render them useless; and (iii) CARRIER is liable for the acts or omissions of any individual communicating to BROKER via CARRIER’s email system (including emails purporting to come from CARRIER’s web domain) or phone numbers assigned to CARRIER.
- (q) For purposes of this Agreement, “Hostage Loads” is defined as CARRIER refusing to immediately release the Customer’s or BROKER’s freight upon demand or otherwise exerting unauthorized control over freight, refusal to deliver a shipment at the scheduled time and place of delivery, refusing to provide BROKER with information on the location of the Customer’s or BROKER’s freight or refusing to deliver, or failure to release or produce such freight. In the event of a Hostage Load, CARRIER acknowledges and agrees this would likely damage BROKER’s reputation with its Customers and other third parties, resulting in loss that would be difficult to quantify and, as a result, CARRIER agrees to pay BROKER, as liquidated damages not a penalty, five thousand dollars (\$5,000.00) for each day (or portion thereof) of a Hostage Load situation. For the avoidance of doubt, these liquidated damages apply with respect to BROKER’s potentially damaged reputation; nothing in this subsection shall reduce or otherwise impact CARRIER’s cargo liability for lost, damaged, or delayed cargo as set forth in Section 7 of this Agreement. BROKER shall be entitled to all available remedies under law in the case of Hostage Loads.

4. **RECEIPTS AND BILLS OF LADING.** Each shipment hereunder shall be evidenced by a bill of lading acceptable to BROKER naming CARRIER as the transporting carrier. The fact that BROKER is named as a “carrier” upon any applicable bill of lading shall not affect BROKER’s status as a property broker. Upon delivery of each shipment made hereunder, CARRIER shall obtain a receipt showing the kind and quantity of product delivered to the consignee of such shipment at the destination specified by BROKER or the Customer, and CARRIER shall cause such receipt to be signed by the consignee.

CARRIER shall submit to BROKER within twenty-four (24) hours after delivery all delivery receipts and the original signed bill of lading evidencing good delivery of the shipment, unless otherwise specifically agreed by BROKER; and in such case, Carrier shall maintain custody of the receipts and original signed bills of lading and shall provide them to Broker upon request. The bills of lading is intended to act as a receipt only. CARRIER's failure to issue a bill of lading shall not affect its liability hereunder. The receipt or bill of lading issued or executed by CARRIER shall be prima-facie evidence of receipt of goods in good order and condition by CARRIER unless otherwise noted on the face of said document. CARRIER shall notify BROKER immediately of any exception made on the bill of lading or delivery receipt. In the event that CARRIER's personnel are not allowed or afforded an opportunity to view and/or examine the goods to be shipped for the purpose of ascertaining the condition of those goods prior to loading, CARRIER's personnel shall immediately notify BROKER and await instructions prior to transporting the shipment and shall note on the bill of lading that they were not allowed or afforded an opportunity to view and/or examine the goods prior to loading.

5. **RATES & PAYMENTS.**

- (a) The rates and charges that shall be in effect for all movements tendered to CARRIER by BROKER shall be as set forth in the Tender Document issued by the BROKER and given to CARRIER. For purposes of this Agreement "Tender Document" shall be defined as the bill of lading and the corresponding confirmation contract sheet which originates with BROKER and is sent to CARRIER. CARRIER will invoice and BROKER will pay the rates and charges set forth in the Tender Document, for transportation services performed under this Agreement. CARRIER will send invoices to BROKER. CARRIER represents and warrants that there are no other applicable rates or charges except those established by the Tender Document. The Tender Document can be supplemented or revised only by written agreement signed by both PARTIES. Rates for any and all accessorial services that might be provided by CARRIER must be set forth in the Tender Document to be valid. In no event will BROKER be responsible for payment of such rates unless paid by the Customer. Without limiting the foregoing, BROKER must receive notice from CARRIER at least sixty (60) minutes prior to the time when detention would start to accrue.
- (b) CARRIER agrees to be bound by the provisions of the Tender Document by acknowledging agreement to provide services or by transporting, or arranging transport, of cargo identified therein.
- (c) In the event service is provided and it is subsequently discovered that there was no applicable or understood rate in the Tender Document, the PARTIES agree that the rate paid by BROKER and collected by CARRIER shall be the agreed upon contract rate of the PARTIES for the services provided, unless such rate is objected to by CARRIER in writing within 10 days of payment by BROKER.
- (d) BROKER will pay CARRIER's invoice within thirty (30) days of receipt by BROKER of CARRIER's invoice, bill of lading, clear delivery receipt or other proof of delivery, and any other necessary billing documents enabling BROKER to ascertain that service has been provided at the agreed upon charge. As a condition to payment, CARRIER shall provide BROKER with a legible copy or photocopy of the bill of lading or other proof of delivery. Failure to provide such documentation within forty-eight (48) hours of delivery may result in a reduction in rate. CARRIER is responsible to BROKER for any and all revenues that are uncollected by BROKER because of CARRIER's failure to provide documentation requested by BROKER or the Customer to prove completion of services.
- (e) BROKER has the exclusive right to handle all billing of freight charges to the Customer for the transportation services provided pursuant to this Agreement, and CARRIER shall refrain from any efforts to collect against the shipper, receiver, or the Customer unless BROKER, in its sole discretion, expressly authorizes CARRIER in writing to collect from any such party, in which case, CARRIER's sole recourse will be against such party. Upon CARRIER's receipt of payment from BROKER, any right of CARRIER to payment from the Customer or any other third-party for services performed will be automatically assigned to BROKER.
- (f) BROKER has the discretionary right to set off or reduce the amount of any payments owed to CARRIER hereunder for any amounts owed by CARRIER to BROKER including, but not limited to, any amounts

advanced by BROKER to CARRIER, and any liability incurred by CARRIER, including, but not limited to, claims for freight, loss, damage, or delay. Payments may be postponed if BROKER reasonably believes CARRIER may have liability for a potential or pending claim.

- (g) CARRIER shall submit all freight bills to BROKER within 90 days of delivery. CARRIER hereby waives its right to payment for services rendered for which freight bills are not submitted to BROKER within 90 days of delivery. Claims for undercharges must be brought within 180 days of BROKER's receipt of the original invoice giving rise to such undercharge claim. To the extent CARRIER has not otherwise waived its rights to payment for services: (i) CARRIER may only bring suit related to unpaid freight charges or undercharges within 12 months of the date of delivery, and (ii) CARRIER hereby waives its right to bring suit related to unpaid freight charges or undercharges to the extent not brought within 12 months of the date of delivery.
- (h) CARRIER shall provide BROKER with thirty (30) days' prior written notice providing BROKER with remittance instructions a ("Notice of Release") if CARRIER intends to enter into from any factoring, assignment, pledge, hypothecation, or granting of a security interest in CARRIER's right to payment under this Agreement ("Factoring"). Such written notice shall include the name and address of assignee/transferee, date, date assignment is to begin, and terms of the assignment, and shall be considered delivered upon receipt of such written notice by BROKER. CARRIER shall be allowed to have only one Factoring legally effective at any one point in time, and no multiple Factoring by the CARRIER shall be permitted. Factoring shall not modify, limit, or terminate BROKER's or its Customer's right to offset or recoup or claims of BROKER or its Customer for offset, recoupment, loss, or damage to any cargo or other property, including personal injury, or any other claim which BROKER or its Customer may have against CARRIER for any reason. All of BROKER's and its Customer's claims and rights are specifically preserved and shall be superior to any such assignee's, factor's, or creditor's rights or claims to payment, regardless of any notice to BROKER or its Customer to the contrary. CARRIER shall notify any such factor, secured creditor, or assignee of BROKER's and its Customer's rights in this regard. BROKER's remittance of payment in accordance with any Notice of Release shall be deemed payment to CARRIER in all regards and shall absolve BROKER of any liability with respect to payment to CARRIER for the services underlying such invoice. Should CARRIER provide multiple or conflicting Notices of Release, BROKER's compliance with instructions in any Notice of Release shall absolve BROKER of any liability with respect to amounts owed to CARRIER for the services in question. CARRIER releases and waives any right, claim or action against BROKER for amount due and owing under this Agreement where CARRIER has not complied with the notice requirements of this section.

6. **WAIVER OF CARRIER'S LIEN.** CARRIER shall not withhold any goods transported under this Agreement on account of any dispute as to rates or any alleged failure of BROKER to pay charges incurred under this Agreement. CARRIER is relying upon the general credit of BROKER and hereby waives and releases all liens which CARRIER might otherwise have to any goods of BROKER or its Customer in the possession or control of CARRIER. CARRIER is liable for any amounts incurred by BROKER to secure release or delivery of cargo, including, but not limited to, any amounts paid to warehouses or towing companies as well as reasonable attorney fees.

7. **FREIGHT LOSS, DAMAGE OR DELAY.**

- (a) CARRIER shall have the sole and exclusive care, custody and control of the cargo for which CARRIER has agreed to provide transportation from the time it is tendered for transportation until delivery to the consignee accompanied by the appropriate receipts. CARRIER shall notify BROKER immediately in the event any such cargo is lost (including stolen), damaged or destroyed, or in the event CARRIER becomes aware that applicable delivery schedules will not be met.
- (b) CARRIER assumes the liability of a motor carrier under the Carmack Amendment as currently codified at 49 U.S.C. § 14706 for loss, delay, damage to or destruction of any and all goods or property tendered for transportation pursuant to this Agreement regardless of whether such standard would apply in the absence of this Agreement.

- (c) CARRIER shall be liable for the full invoice value of the cargo lost, damaged, delayed, or destroyed, as well as any additional costs or fees imposed upon BROKER by the cargo claimant or any amounts paid by BROKER to its Customer related to any such loss, damage, delay or destruction. No limitation of liability shall apply unless specifically agreed to in writing by BROKER prior to CARRIER's receipt of the specific shipments to which such limitation applies, and BROKER's agreement to a limitation shall not be construed as a waiver of full value liability with respect to any other goods tendered to CARRIER.
- (d) CARRIER waives any Applicable Law regarding processing of claims and handling of salvage, including, but not limited to, the provisions of 49 C.F.R. Part 370. CARRIER shall pay to BROKER or its Customer, or allow BROKER to deduct from the amount BROKER owes CARRIER, Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged or destroyed. Payments by CARRIER to BROKER or its Customer, pursuant to the provisions of this section, shall be made within sixty (60) days following receipt by CARRIER of BROKER's or Customer's undisputed claim and supporting documentation. CARRIER shall fully assist BROKER in investigating any claim for cargo loss, damage, delay, or destruction.
- (e) Unless BROKER indicates a shorter period on a per-load basis, generally, Goods that have not been delivered within ten (10) days past the scheduled delivery date shall be deemed to have been destroyed and a total loss.
- (f) CARRIER waives any right to salvage goods subject to this provision, as well as any right to claim an offset for the value of salvage.
- (g) Exclusions from coverage contained in CARRIER's Cargo Insurance as required herein shall not affect CARRIER's liability for freight loss, damage, or delay. Without limiting CARRIER's contractual liability to BROKER hereunder, CARRIER acknowledges and agrees that BROKER may, in its sole discretion, but is not required to, pursue claims for cargo loss and damage on behalf of its Customer, and in such instances is not required to obtain an assignment of claim from its Customer in order to pursue such a claim. Should BROKER or its Customer incur costs to collect amounts owed by CARRIER pursuant to this article, in addition to any other amounts owed by CARRIER hereunder, CARRIER will be liable to reimburse any and all such costs including, but not limited to, reasonable attorney fees.
- (h) In the event that CARRIER does not timely complete delivery for any reason: (i) CARRIER retains its duty to mitigate damages and shall use its best efforts to prevent the loss, delay, spoilation, or perishing of cargo; and (ii) CARRIER shall follow all reasonable instructions of BROKER or the cargo owner in order to facilitate the completion of the services including, but not limited to, re-powering trailers, transloading shipments, or releasing cargo pursuant to BROKER's instructions. Without limiting the remedies available to BROKER, CARRIER acknowledges and agrees that a breach of this paragraph may result in material irreparable injury for which there is no adequate remedy at law, that it will not be possible to precisely measure damages for such injuries and, that in the event of such a breach or threat of breach of this paragraph BROKER and/or the cargo owner shall be entitled, without the requirement to post bond or other security, to obtain a temporary restraining order and/or injunction or such other relief as may be required to specifically enforce any of the requirements in this paragraph.

8. **INSURANCE.** CARRIER shall procure and maintain, at its sole cost and expense, the following insurance coverages and otherwise comply with the following obligations regarding insurance:

- (a) Commercial Automobile Liability insurance ("AL") covering all vehicles and trailers used in connection with the services (regardless of whether owned, leased, rented, non-owned, hired, or otherwise used), including hired auto coverage, insuring CARRIER in an amount not less than \$1,000,000.00 (U.S. Dollars) per occurrence (or \$5,000,000.00 (U.S. Dollars) per occurrence if transporting hazardous materials).

- (b) Commercial general liability (“CGL”) insurance covering the transportation of shipments and other operations under this Agreement in an amount not less than \$1,000,000.00 (U.S. Dollars) per occurrence. Such insurance shall also cover CARRIER’s contractual liability under this Agreement.
- (c) Broad form motor truck cargo legal liability (“Cargo”) insurance in an amount not less than \$100,000.00 (U.S. Dollars) per occurrence. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims including, but not limited to, exclusions for unattended or unattached trailers, theft, commodities transported under this Agreement, refrigerator breakdown or lack of refrigerator fuel.
- (d) Statutory workers’ compensation insurance coverage in such amounts and in such form as required by applicable state law. If CARRIER uses any workers to provide driving or cargo handling services that are not required by law to be covered by workers compensation insurance, CARRIER will ensure that any such worker is covered by occupational accident or other alternative work injury insurance with total benefit limits of not less than \$1,000,000.00 per occurrence at all times any such worker provides services covered by this Agreement.
- (e) All insurance policies required by this Agreement shall, as applicable, be primary and shall waive subrogation and contribution against BROKER. CARRIER shall furnish to BROKER written certificates obtained from the insurance carrier showing that such insurance has been procured, is being properly maintained, the expiration date, specifying that written notice of cancellation or modification of the policies shall be given to BROKER at least thirty (30) days prior to such cancellation or modification and listing BROKER as a certificate holder. In addition, BROKER shall be named as an additional insured on CARRIER’s CGL and AL policies, and as a loss payee on the Cargo policy as evidenced by an endorsement on the certificates of insurance. Upon request of BROKER or its designated insurance consultant, CARRIER shall provide BROKER, BROKER’s consultant, or Customer with copies of the applicable insurance policies. If CARRIER fails to maintain such insurance, BROKER may do so and charge CARRIER for such cost and offset in accordance with this Agreement. CARRIER will not conduct any operations not covered by its insurance policies. Without limiting the foregoing, if any of CARRIER’s insurance policies limit coverage to certain scheduled automobiles or drivers, CARRIER will provide BROKER up-do-date schedules of all scheduled drivers and/or vehicles (including any amendments thereto) and will only use currently scheduled drivers and vehicles in the performance of services under this Agreement. CARRIER will file claims with its insurer and will actively communicate with the insurer and provide information requested by the insurer. The foregoing notwithstanding, CARRIER appoints BROKER as CARRIER’s agent for purposes of filing claims with, and corresponding with, CARRIER’s insurers, and for purposes of negotiating claim settlements with CARRIER’s insurers.

9. **USE OF BROKER’S TRAILER(S) BY CARRIER.** If CARRIER utilizes a trailer, container, chassis or other equipment owned by or leased to BROKER, its Customer, their affiliates, or otherwise provided to CARRIER by BROKER or its Customer or any of their affiliates (“Trailer(s)”) for the performance of the services contemplated hereunder, CARRIER shall be liable for any damage to Trailers, destruction of Trailers, theft of or from Trailers, theft of any contents of Trailers, loss of Trailers and for any claims for bodily injury (including death) or property damage arising from or related to any accident involving Trailer(s) regardless of whether such damage, injury, destruction, or theft is caused or occurs while the Trailer is attached or unattached to any power unit operated by CARRIER, except to the extent such damage, loss, destruction, or theft is directly and proximately caused by the negligence, recklessness, or willful misconduct of the party providing such Trailer to CARRIER. The initial burden of proving such damage, injury, destruction, loss or theft was directly and proximately caused by the negligence, recklessness, or willful misconduct of such party in any proceeding brought pursuant to this Agreement shall rest on CARRIER. If applicable state law does not allow waiver of liability to the extent contained in this provision, the Parties expressly agree that the liability of the party providing the Trailer will be waived to the fullest extent allowed by applicable state law. CARRIER shall procure and maintain, at its sole cost and expense, hired and non-owned trailer physical damage insurance covering loss or damage to all Trailers written on an actual cash value basis per unit, but in no event less than the actual value of the applicable trailer, and the party providing such Trailer will be named as a loss payee with respect to that insurance. CARRIER will ensure that Trailers are not used for any purpose other than performing

services under his Agreement, and CARRIER will not allow any third party or any power unit not operating under CARRIER's for-hire motor carrier authority to operate any such Trailer. CARRIER ACKNOWLEDGES AND AGREES THAT NEITHER BROKER NOR THE CUSTOMER NOR ANY OF THEIR AFFILIATES MAKE ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, REGARDING THE TRAILER INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR USE.

10. **INDEMNITY.** CARRIER shall defend, indemnify, and hold BROKER, its Customer, the consignor and consignee, and each of their affiliated entities, harmless from and against, and shall pay and reimburse, any and all direct or indirect loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the performance or breach of this Agreement by CARRIER, its employees or independent contractors working for CARRIER, or otherwise arising from transportation of shipments tendered pursuant to this agreement (collectively, the "Claims"), including, but not limited to, Claims for or related to personal injury (including death), property damage, CARRIER's possession, use, maintenance, custody or operation of the Equipment and indirect, special, or consequential damages, or other special economic losses, including lost profits that might be awarded against BROKER on any Claim; provided, however, that CARRIER's indemnification and hold harmless obligations under this paragraph will not apply to the prorated extent that any Claim is directly and proximately caused by the negligence or other wrongful conduct of the party to be defended, indemnified or held harmless. CARRIER hereby expressly waives any exclusive remedy defense, including, but not limited to, those available under any workers' compensation or other occupational accident statutory regime, to the extent necessary to effectuate CARRIER's obligations under this provision.

11. **HANDLING, LOADING AND SEALING.**

- (a) CARRIER will comply with handling instructions provided by the Customer, shipper, consignor or consignee (including such instructions that may be passed through to CARRIER by BROKER) including, but not limited to, compliance with requirements related to transportation of temperature-controlled shipments. Without in any way limiting the generality of the foregoing, CARRIER shall ensure that any shipments requiring controlled temperature transit are maintained at all times within required temperature ranges.
- (b) If a reasonable person would understand that tendered goods require controlled temperature transportation, and CARRIER has not been provided instructions regarding controlled temperature goods, CARRIER shall request and obtain such instructions prior to loading the goods. If CARRIER receives contradictory or confusing instructions regarding any shipment, CARRIER must resolve the contradictory or confusing instructions prior to accepting the shipment for transport.
- (c) With respect to cargo requiring controlled temperature transportation, CARRIER shall abide by the following: (i) CARRIER shall perform regularly scheduled maintenance on any refrigeration unit used to transport cargo pursuant to this Agreement in accordance with manufacturer recommendations, and shall maintain records of such maintenance; (ii) CARRIER shall ensure all refrigeration units are sufficiently fueled; (iii) CARRIER is responsible to ensure pre-cooling of all transportation equipment prior to pick-up; (iv) CARRIER shall ensure that all trailers are equipped with functioning temperature monitoring devices capable of demonstrating that required temperatures were maintained during the entire period of transit; and (v) CARRIER will only use refrigeration equipment capable of producing a downloadable report demonstrating that required temperatures were maintained throughout the entire period of transit, which reports will be maintained for at least three (3) years after delivery and provided to BROKER or its Customer upon request.
- (d) Unless a shipment is loaded and sealed prior to arrival of CARRIER personnel, the manner of loading and securing freight upon Equipment shall be the sole responsibility of CARRIER. With respect to unsealed or unsecured loads loaded prior to or upon CARRIER's arrival, CARRIER shall be obligated to inspect such loading prior to departing and properly secure such loads. CARRIER represents that each driver utilized by it shall be competent to manage the loading, securing, and transportation of the goods subject to this Agreement.
- (e) CARRIER shall secure shipments with a serialized seal. CARRIER shall ensure that the serialized seal number appears on the bill of lading or other form of manifest or receipt. CARRIER is solely

responsible for maintaining seal integrity during transportation of the shipment. Except as is required by law enforcement personnel, under no circumstances shall CARRIER or any of its personnel break any seal without the express consent of BROKER. CARRIER shall immediately notify BROKER to report a missing or broken seal.

- (f) If law enforcement personnel require that CARRIER break any seal on any shipment, CARRIER shall document such fact on the bill of lading or other form of manifest or receipt by noting the law enforcement agency, time, location, and officer name and badge number. Upon completion of inspection by law enforcement personnel, CARRIER personnel shall immediately re-seal the shipment with a serialized seal and shall indicate the second seal number on the bill of lading or other form of manifest or receipt. Furthermore, CARRIER shall, as soon as reasonably possible after being required to break a seal by law enforcement personnel, communicate such fact to BROKER and, if not BROKER, the consignee of the shipment.
- (g) CARRIER agrees that food that has been transported or offered for transport under conditions that are not in compliance with the load handling instructions, as provided to CARRIER, including loads delivered with a broken, missing or unreadable seal, may be considered "adulterated" within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C § 342(i), and its implementing regulations. CARRIER understands and agrees that adulterated shipments may be refused by the consignee or receiver, upon their delivery, at destination and CARRIER shall bear sole risk of rejection of cargo arising from or related to broken, missing or unreadable seals or failure to comply with load handling instructions.

12. **DRAYAGE SERVICES.** This section applies to pick up and/or deliver intermodal containers at ocean ports and rail yards ("Drayage Services").

- (a) CARRIER warrants that it is a participant in, and will abide by, the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA) (including each addendum thereto applicable to its services), as well as any additional interchange or chassis use agreements governing its use or operation of intermodal containers and chassis, and that each of the drivers utilized to provide drayage services under this Addendum will be in possession of any and all credentials required to provide the Drayage Services requested including, but not limited to, a valid Transportation Worker Identification Credential (TWIC).
- (b) CARRIER shall hold all licenses, authorizations and approvals required to perform the Drayage Services directly using power units operating pursuant to CARRIER's for-hire motor carrier authority. Without limiting the foregoing, CARRIER and all power units used by it to perform Drayage Services, will be a party to, or otherwise approved under, any port concession agreements governing access to port locations.
- (c) CARRIER will be solely responsible for any charges assessed by any third party related to the use of intermodal containers or chassis transported by CARRIER hereunder, or agreed to be transported by CARRIER, including, but not limited to, any per diem, use, demurrage or storage charges, provided that CARRIER will only be liable for such charges assessed during the period commencing twenty-four (24) hours after CARRIER receives notice from BROKER that the container or chassis was available for pick up or due for return until CARRIER's ultimate delivery of the container or chassis. If BROKER requests that CARRIER provide Drayage Services, and CARRIER does not decline such request in writing within twenty-four (24) hours of such request, CARRIER will be deemed to have agreed to provide Drayage Services. CARRIER's obligation to indemnify and hold harmless BROKER as set forth in the Agreement shall include the duty to pay any and all amounts for which CARRIER has assumed liability pursuant to the provisions of this paragraph.

13. **CONFIDENTIALITY AND NON-SOLICITATION.**

- (a) CARRIER shall maintain records related to shipments transported under this Agreement, and with respect to shipments consisting of food, shall also obtain records related to prior shipments transported in the same equipment, for a period of not less than three (3) years from the date of

delivery. CARRIER shall provide such records to BROKER upon request, and regardless of whether this Agreement remains in effect at the time of such request. CARRIER shall not disclose the terms of this Agreement to a third party without the written consent of BROKER except as required by Applicable Law. CARRIER will not disclose any information regarding BROKER's or its Customers' business or operations, (including Customer identities, locations, volumes, etc.), the rates for services agreed between BROKER and CARRIER, or the rates paid by BROKER to CARRIER with respect to services hereunder.

- (b) While this Agreement is in effect and for twenty-four (24) months following termination or expiration, CARRIER will not perform any services, either directly or indirectly, for any shipper, consignor, consignee or Customer of BROKER where CARRIER first rendered services for any such shipper, consignor, consignee or Customer pursuant to this Agreement. If CARRIER breaches this paragraph, CARRIER shall be obligated to pay BROKER commissions in the amount of fifty percent (50%) of the transportation revenue resulting from service performed in violation of this provision, and CARRIER shall provide BROKER with all documentation requested by BROKER to verify such transportation revenue. CARRIER shall not utilize BROKER's or the Customer's name or identity in any advertising or promotional communications without written confirmation of BROKER consent.

14. **SUB-CONTRACT PROHIBITION.** CARRIER warrants that all freight tendered by BROKER shall be transported on equipment operated only under the for-hire motor carrier authority of CARRIER, and that CARRIER shall not in any manner sub-contract, broker, or in any other form arrange for the freight to be transported by a third party. Any lease arrangement between CARRIER and any third party will be deemed to be a lease pursuant to 49 C.F.R. Part 376 pursuant to which CARRIER assumes exclusive use, possession and control of the lessor's equipment, which such lease will result in the lessor's equipment being operated pursuant to CARRIER's for-hire motor carrier authority and any operations of the lessor will be operations of CARRIER subject to this Agreement. If CARRIER nevertheless allows a third party to transport cargo pursuant to this Agreement, CARRIER shall: (a) remain directly liable to BROKER as if CARRIER transported such freight under its own authority in accordance with this provision, (b) be liable for consequential and special damages arising from or related to CARRIER's use of any third party, (c) shall hold harmless and indemnify BROKER and its Customer from any and all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the use of any subcontractor regardless of whether arising from the conduct or omissions of CARRIER, the subcontractor, or any other third party; (d) forfeit any and all right to payment for services subcontracted in violation of this provision; and (e) be liable to BROKER for any and all costs and expenses arising from or related to such breach.

15. **BROKER'S RECORDS.** CARRIER hereby waives its right to obtain copies of BROKER's records as provided for under 49 C.F.R. Part 371. Notwithstanding the foregoing, to the extent that CARRIER obtains records set forth in 49 C.F.R. § 371.3 by any means whatsoever, CARRIER agrees to refrain from utilizing such records in negotiating for the provision of services with any third party, including existing customers of BROKER. CARRIER further agrees and understands that all such records comprise BROKER's confidential information and trade-secrets. Nothing in this section is intended to relieve CARRIER of any other obligations imposed upon it by this Agreement, or to limit any rights of BROKER to enforce such obligations.

16. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT.** This Agreement may not be assigned or transferred in whole or in part by CARRIER absent the prior written consent of BROKER, and supersedes all other agreements and all tariffs, rates, classifications and schedules published, filed or otherwise maintained by CARRIER. This Agreement shall be binding upon and inure to the benefit of the parties hereto. In addition, Customers are express intended third party beneficiaries of this Agreement.

17. **SEVERABILITY.** In the event that the operation of any portion of this Agreement results in a violation of any law, the parties agree that such portion shall be severable and that the remaining provisions of this Agreement shall continue in full force and effect.

18. **SURVIVAL.** Those provisions of this Agreement which, by their terms, extend beyond the termination of this Agreement will remain in full force and effect and survive such termination.

19. **WAIVER.** CARRIER and BROKER expressly waive any and all rights and remedies allowed under Part B of Subtitle IV to Title 49 of the U.S. Code as allowed by 49 U.S.C. § 14101 to the extent that such rights and remedies conflict with this Agreement. No provision of this Agreement or any Tender Document shall be waived by any PARTY hereto, unless such waiver is written and signed by the authorized representative of the PARTY against whom such waiver is sought to be enforced. Failure of BROKER to insist upon CARRIER's performance under this Agreement or to exercise any right or privilege arising hereunder shall not be a waiver of any BROKER's rights or privileges herein.

20. **NOTICE.** With the exception of shipment specific communications (including, but not limited to, Rate Confirmation Sheets, shipment specific instructions and insurance requirements, status updates, bills of lading, proofs of delivery, and claims information), all of which may be exchanged via email, fax or other electronic means, all notices or other communications required or permitted by this Agreement shall be in writing and personally delivered, transmitted by email, sent by mail, postage prepaid, or sent by overnight courier to such PARTY at the address set forth below such PARTY's signature to this Agreement above or to such other address as such PARTY may hereafter indicate by written notice to the other PARTY and shall be effective: (i) if personally delivered, upon receipt, (ii) if mailed, five business days after deposit in the U.S. mail, (iii) if sent by nationally recognized overnight courier (such as Federal Express or UPS), on the next business day after being deposited with said courier, and (iv) if by email, upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, return e-mail or other written acknowledgement).

21. **DISPUTE RESOLUTION.** This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the state of Michigan. In the event of any disagreement or dispute, the laws of Michigan shall apply except to the extent superseded by applicable federal law. All such disagreements or disputes shall be submitted solely and exclusively to the courts of proper subject matter jurisdiction servicing Oakland County, Michigan, except that suit may be commenced against CARRIER in any venue permitted by claims brought under 49 U.S.C. § 14706, and if BROKER is a party to a lawsuit involving a third-party, including any Customer, with respect to any claim with respect to which CARRIER has potential liability to BROKER, BROKER may initiate suit against CARRIER in the same jurisdiction where the lawsuit involving BROKER is pending. EACH PARTY HEREBY CONSENTS TO THE AFOREMENTIONED PERSONAL JURISDICTION OF SUCH COURTS, AND HEREBY IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT ANY CHALLENGE TO VENUE IN, OR PERSONAL JURISDICTION OF, ANY SUCH COURT.

22. **COUNTERPARTS.** This Agreement may be executed in separate counterparts, each of which shall be an original, but which together shall constitute one and the same instrument, and that electronic or scanned and emailed signatures on this Agreement shall be effective as if they were originals.

23. **ATTORNEYS' FEES.** In the event either PARTY incurs attorney's fees, costs or expenses in enforcing any provision of this Agreement, or in exercising any right or remedy arising out of any breach of this Agreement by the other PARTY or their agents, subcontractors or representatives, the prevailing PARTY shall be entitled to an award of attorney's fees, costs, and expenses against the defaulting PARTY.

24. **COMPLETE AGREEMENT.** This Agreement supersedes all other agreements and all tariffs, rates, classifications, and schedules published, filed, or otherwise maintained by CARRIER. This Agreement constitutes the entire agreement between the PARTIES and fully replaces and supersedes all prior and contemporaneous agreements, representations, and understandings, oral and written, pertaining to the subject matter contained herein. BROKER may, at its discretion, modify or amend the terms or conditions of this Agreement by means of a written amendment, which BROKER shall promptly mail or otherwise transmit to CARRIER. Said modification or amendment shall become effective three (3) days after transmission by BROKER. CARRIER's continued acceptance of freight tendered by BROKER or BROKER's Customer thereafter shall constitute express acceptance by CARRIER of such modification of or amendment to this Agreement. CARRIER may not amend this Agreement without BROKER's express agreement to such amendment. In the event that any portion of this Agreement is declared void or unenforceable, then such provision shall be deemed severed from this Agreement which shall otherwise remain in full force and effect.

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

BROKER:
VIEWDIA, LLC

CARRIER

Printed: _____
Date: _____

Printed: _____
Date: _____

Address: 31445 Sunset Dr. _____
Beverly Hills, MI 48025

Address: _____

Phone: (888) 502-7156
Fax: _____

Phone: _____
Fax: _____
FID No: _____

APPENDIX A

1. Rates. In accordance with Paragraph 5 of the Agreement, the rates applying to the transportation services to be provided pursuant to the Agreement are set forth below:

BROKER: VIEWDIA, LLC

CARRIER

Printed: _____
Title: _____
Date: _____

Printed: _____
Title: _____
Date: _____