

# HOUSEHOLD GOODS AND PRIVATELY OWNED AUTOMOBILES AGREEMENT

This HOUSEHOLD GOODS AND PRIVATELY OWNED AUTOMOBILES AGREEMENT (the “Agreement”) dated as of the date set forth below is between \_\_\_\_\_ [*verify full corporate name*](“Contract Holder”), and Pacer Stacktrain, LLC (“PST”).

## RECITALS

Contract Holder wishes to transport household goods (personal effects and property used in a dwelling and similar property) and/or privately owned automobiles for the benefit of its customers and the beneficial cargo owners (“BCO”) of the household goods or automobiles through PST’s intermodal transportation network. PST is willing to accept and arrange for the intermodal transportation of these household goods or automobiles using the rail services of CSX Intermodal and its affiliates (“CSX”) and Union Pacific Railroad Company (“UP”) and other motor and rail transportation providers on the terms and conditions in this Agreement. Collectively UP, CSX, any drayage transportation provider and any other rail or motor transportation providers are referred to in this Agreement as the “Carriers.”

## AGREEMENT

**NOW THEREFORE**, in consideration of the foregoing premises and the mutual agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contract Holder and PST agree as follows:

1. This Agreement applies to the transportation of household goods and/or automobiles tendered by Contract Holder on behalf of any of Contract Holder’s customers or BCOs for intermodal service provided by the Carriers and arranged through PST. Contract Holder acknowledges that PST is a provider of intermodal equipment and an arranger of transportation services through rail carriers and that shipment of household goods and automobiles is restricted under Pacer Stacktrain’s Rules and Procedures (the “PST Rules”), CSX’s Service Directory No. 1 (as in effect from time to time, “Directory No. 1”), Master Intermodal Transportation Agreement, Union Pacific Exempt Circular MITA 2-A (as in effect from time to time, the “UP MITA”). Collectively the PST Rules, Directory No. 1, the UP MITA and the rules and directories of any other engaged rail transportation providers are referred to as the “Intermodal Circulares” in this Agreement.
2. The rates for Contract Holder’s shipments of household goods and/or automobiles shall be PST’s household goods and/or automobile rates between the origin and destination involved in the transportation. Other rates made available to Contract Holder shall not be used for household goods or automobile shipments. Shipping instructions for household goods will use the following STCC numbers: 41-116, 41-116-15 or 41-116-25. Any hazardous material contents must also be duly noted and tendered under the hazardous materials procedures set forth in the Intermodal Circulares. All hazardous fluids must be removed before shipping. Contract Holder will not tender household goods or automobiles as FAK (freight all kinds).
3. In consideration of PST’s rates and permission to transport household goods and/or automobiles over its rail network, Contract Holder hereby releases, indemnifies, and holds harmless the Carriers and PST and their respective affiliates, employees, agents, representatives, and subcontractors from and against all liability, loss, damage, penalty, fee, expense, suits and claims, including but not limited to attorney’s fees, judgments or settlements, defense and investigation costs and the costs of

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enforcing this indemnity (collectively, "Losses"), arising out of injury or death of persons, property damage (including cargo loss and damage), environmental contamination or violation of law associated with the transportation of household goods and/or automobiles or the performance of services hereunder, from whatsoever cause, including, but not limited to those claims, suits, or causes of action brought by Contract Holder, its customers or by any BCO tendering household goods or automobiles through movers arising out of or in connection with performance of services hereunder, from whatsoever cause, including but not limited to damage or loss caused solely by derailment or theft of goods while in the possession of PST or the Carriers. The foregoing release and indemnification shall not apply as to a Carrier when occasioned by the sole negligence of a Carrier or its employees, agents, representatives, and subcontractors (including damage or loss caused solely by derailment or theft of goods while in the possession of such Carrier released persons). The foregoing release and indemnification shall not apply as to PST when occasioned by the sole negligence of PST and its affiliates, employees, agents, representatives, and subcontractors in arranging for transportation services. Contract Holder agrees (1) upon request of any Carrier or PST, to assume defense of any such claim, suit or cause of action and (2) to reimburse PST immediately upon its request for any and all amounts that PST incurs or owes to a Carrier (other than linehaul rates, terminal service and other accessorial charges for transportation of household goods and/or automobiles) under any release and indemnification arrangement between Carriers and PST regarding the transportation of household goods and/or automobiles arranged by Contract Holder on behalf of its customers and the BCOs.

4. Contract Holder understands and agrees that neither PST nor the Carriers shall be liable for any direct, indirect, special, consequential or punitive damages that result from delay or interruption of rail services. Neither PST nor any Carrier guarantees rail service on any schedule, whether published, projected, implied or otherwise.

5. Contract Holder will cause its customer and BCOs to transport all shipments in closed, locked and secured trailers and/ or containers. Contract Holder further understands and agrees that all household goods, automobiles and other cargo must be blocked and braced to prevent any longitudinal or lateral movement within the container in accordance with the Intermodal Circulars. Contract Holder acknowledges that PST and the Carriers make no representations as to the suitability of the household goods cargo or automobiles for rail transportation, Contract Holder further acknowledges that there are significant differences in the forces exerted on the cargo in rail transportation that may require additional packing measures for the cargo to move safely.

6. Contract Holder understands and agrees on behalf of themselves and any other shipper, consignee, BCO or other person or entity involved in the transportation of the household goods and/or automobiles tendered for transportation through PST that Contract Holder accepts full liability for delay, destruction, loss or damage, or any other claim occurring during transit. PST's and the Carriers' shall have no liability for delay, destruction, loss or damage or any other claim occurring during transit to such household goods or automobiles.

7. Contract Holder agrees to abide by all of the terms and conditions set forth in this Agreement and the Intermodal Circulars and to notify all persons or entities involved in the transportation, including the shipper, consignee, BCO, and others involved that the provisions of this Agreement and the Intermodal Circulars apply to the household shipments and/or automobiles transported on the Pacer Stacktrain network. Contract Holder further agrees to cause such persons and entities to comply with applicable provisions of this Agreement and the Intermodal Circulars. Contract Holder will provide defense and indemnification (in addition to the indemnification required under Section 3 or under the Intermodal Circulars) from any claims alleging lack of knowledge of the provisions of this

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Agreement or the Intermodal Circulars in accordance with the procedures set forth in Section 3 hereof.

8. This Agreement supplements the terms of the transportation agreement between PST and Contract Holder and shall control in the event of any conflict. This Agreement shall be governed by the laws of Tennessee, without regard to its conflict or choice of law rules, and will remain in effect for as long as Contract Holder tenders household goods and/or automobiles to PST for transportation. This letter agreement may be executed in two or more counterparts, and each such counterpart shall be deemed to be an original instrument and shall be considered validly delivered and become effective when one or more counterparts have been signed by each of the parties and delivered (by facsimile or otherwise) to the other parties.

**IN WITNESS WHEREOF**, the undersigned have executed and delivered this Household Goods and Privately-Owned Automobiles Agreement as of the date set forth below.

**Contract Holder:** \_\_\_\_\_

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

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

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

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

**Pacer Stacktrain, LLC**

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

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

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

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