

DCLI GENSET INTERCHANGE AGREEMENT

THIS GENSET INTERCHANGE AGREEMENT (this “Agreement”), dated _____, is by and between Direct ChassisLink, Inc. (“DCLI”) and _____ (“Motor Carrier”).

1. Scope of Agreement. DCLI hereby agrees to provide to Motor Carrier and Motor Carrier hereby accepts from DCLI generator set and related equipment as contemplated hereby (collectively, the “Genset”). Except as set forth in this Agreement, in no event shall Motor Carrier have any right to any quantity or volume of Genset. Motor Carrier shall not be deemed to have any exclusive rights under this Agreement.
2. Implementation of Agreement. At the time of interchange of any Genset hereunder, authorized representatives of DCLI and Motor Carrier shall examine the Genset and such examination shall include, without limitation, confirming the Genset is properly affixed to the chassis, confirming the Genset is filled with fuel and the Genset is operational. Acceptance of the Genset by Motor Carrier shall constitute Motor Carrier’s acknowledgement Motor Carrier has conducted the aforementioned examination, and that the Genset is properly affixed to the chassis, filled with fuel, is operational, and is otherwise fit for use, in good, working condition. At the time of interchange of any Genset hereunder which the Motor Carrier will use in conjunction with an intermodal chassis owned, managed or for which usage thereof is otherwise billable by DCLI, Motor Carrier shall have executed, and be in compliance with, a DCLI chassis interchange agreement for Motor Carrier’s use of the type of DCLI chassis to which any Genset will be affixed (such agreement a “Chassis Interchange Agreement”). When required for power output, align the reefer container’s power cord from the reefer to the Genset in a safe and secure manner. When required for power output, ensure that the Genset is turned on, and ensure that the Genset is turned off when not required.
3. Ownership. Each Genset interchanged hereunder shall at all times remain the sole and exclusive property of DCLI, and Motor Carrier shall acquire no ownership rights of any nature by virtue of paying daily usage charges, cost of repairs or cost of transporting said Genset or otherwise. Each Genset shall, where appropriate, have DCLI’s serial numbers and other identifying marks affixed thereto, which shall not be obliterated or altered by Motor Carrier. DCLI shall pay any applicable registration and licensing fees for each Genset.
4. Use by Motor Carrier. Motor Carrier shall have complete right of possession and use of each Genset interchanged during the term of this Agreement so long as no default hereunder has occurred. Motor Carrier shall have exclusive right to supervise, direct and control the activities of all persons who are employed by or through Motor Carrier or who otherwise operate or use the Genset during the interchange period, and Motor Carrier shall have sole responsibility with respect to them. No person operating, in possession of, or using any Genset from the interchange of a Genset into the possession of Motor Carrier pursuant hereto, until its return made in accordance with the terms of this Agreement shall be considered the agent or employee of DCLI for any purpose whatsoever. Under no circumstances shall Motor Carrier detach the Genset from the chassis to which it is attached at the time of interchange. Genset will be provided to Motor Carrier with a full tank of diesel fuel. Upon return of the Genset to the Start/Stop Location, DCLI will refill the fuel tank until full, and DCLI will invoice to Motor Carrier its actual cost incurred for labor and fuel required to refill the fuel tank. If in the event Motor Carrier must refuel while the Genset is interchanged to Motor Carrier, only diesel fuel must be used.
5. Sub-Letting. Motor Carrier shall not sublet or in any other manner permit any Genset to go out of its possession without the prior written consent of DCLI, as shown on the Genset Inspection Report or otherwise, and then only to the extent of said written permission. Any consent by DCLI to the subletting of any Genset shall be deemed an amendment to this Agreement, which must be signed by the DCLI. If such consent is given by a clause in the Genset Inspection Report, such clause must be separately signed by DCLI. In the event any Genset is sublet by Motor Carrier, with or without the consent of DCLI, or otherwise comes into the possession of a party other than Motor Carrier, Motor Carrier shall continue to be fully liable and solely responsible to DCLI for the performance of

all terms and conditions of this Agreement.

6. Redelivery. When Motor Carrier desires to terminate its interchange with respect to any Genset, it shall return (the date of return for any Genset is the "Return Date") said Genset at its sole cost and expense to the location set forth on Exhibit A attached hereto where such Genset was originally interchanged or as subsequently published by DCLI in a list of Genset Start/Stop Locations located at www.dcli.com, or such other website as identified by DCLI (the "Return List"), in the same condition as such Genset was at the time of interchange, ordinary wear and tear from proper use thereof excepted. The Return List will indicate which locations Genset can be returned on the applicable Return Date without a repositioning charge and which locations for the applicable Return Date will trigger a repositioning charge, and the amount of the repositioning charge. Each Genset will be inspected for damage by a representative of DCLI following return by Motor Carrier.

7. Damage. Motor Carrier shall be responsible for the cost to repair damage to each Genset that occurs while the Genset is in Motor Carrier's possession and control, ordinary wear and tear excepted, in accordance with DCLI's maintenance and repair and emergency road service policies set forth in Exhibit B and elsewhere in this Agreement. In the event damage for which Motor Carrier is responsible is discovered upon return of a Genset, DCLI will arrange for repairs and assess any repair costs to Motor Carrier. In the event repairs are required while the Genset is in the possession of Motor Carrier, Motor Carrier shall effect repairs using DCLI's over-the-road repair procedures set forth on Exhibit B or as subsequently published by DCLI at www.dcli.com, or such other website as identified by DCLI. If Motor Carrier makes any repairs on any Genset, Motor Carrier shall be responsible for the cost of such repairs in addition to DCLI's reasonable cost to repair or replace Genset necessitated by improper repairs made by Motor Carrier. Under no circumstance shall DCLI have any liability whatsoever with respect to any cargo-related costs, expenses, damages or other losses, including, without limitation costs, expenses, damages or other losses resulting from the operation or failure of any Genset.

8. Indemnity and Liability. Motor Carrier AGREES TO DEFEND, INDEMNIFY AND SAVE HARMLESS DCLI and its insurers, affiliates, and their respective employees, agent, representatives, successors and assigns (without regard to whether their liability is vicarious, implied in law or as a result of their failure or negligence or otherwise) from and against any and all suits, losses, fines, penalties, damages, claims, injuries (including death), damage to property, damage to or loss of any Genset, other demands and liabilities of every nature, including reasonable attorney's fees, arising directly or indirectly from or in connection with Motor Carrier's possession, use, condition, or operation of any Genset, including actions or claims for negligence or strict liability in tort, excluding only liabilities solely and directly arising out of DCLI's willful misconduct or grossly negligent acts. DCLI does not assume liability for any acts or omissions of Motor Carrier or its agents or employees. Motor Carrier shall be responsible for and shall pay any and all fines or citations arising out of its acts or omissions while in possession of the Genset during the term of this Agreement. If applicable state law does not allow enforcement of indemnity obligations to the extent contained in this provision, the parties expressly agree that Motor Carrier will be obligated to indemnify DCLI and the other indemnified parties to the fullest extent allowed by applicable law. The provisions of this Section 8 shall survive the termination, cancellation or expiration of this Agreement.

9. Insurance. Motor Carrier shall procure and maintain, at its sole cost and expense, throughout the term hereof, the following insurance coverages: (i) commercial automobile insurance policy with a combined single limit of \$1,000,000 or greater, insuring all Gensets provided to Motor Carrier hereunder; (ii) property damage liability coverage in an amount not less than \$1,000,000 in respect of loss or damage to property arising out of the usage of Gensets under this Agreement (which limits can be obtained through a combination of general liability and excess liability/umbrella coverage); (iii) commercial general liability insurance with a combined single limit of \$2,000,000 per occurrence or greater, of which no portion can be self-insured; (iv) general liability and automobile liability insurance in an amount not less than \$5,000,000 CSL for the carriage of hazardous substances as defined in 49 C.F.R. 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons, or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas, or highway route controlled quality radioactive materials as defined in 49 C.F.R. 173.403; (v) general liability and automobile liability insurance in an amount not less than \$1,000,000 CSL for the carriage of oil listed in 49 C.F.R. 172.101,

hazardous materials and hazardous substances defined in 49 C.F.R. 171.8 and listed in 49 C.F.R. 172.101; (vi) cargo liability insurance in an amount not less than \$100,000 per occurrence. The insurance set forth in this Section 9 shall name DCLI as an additional insured and shall be primary to any and all other applicable insurance. Prior to taking possession of any Genset, Motor Carrier shall furnish to DCLI written certificates obtained from the insurance carrier showing that such insurance has been procured, is being properly maintained, the expiration date and specifying that written notice of cancellation or modification or material alteration (e.g., coverage reduced, limits decreased or additional insured removed) of the policies shall be given to DCLI at least thirty (30) days prior to cancellation or modification or material alteration, by certified mail. Upon request, Motor Carrier shall provide DCLI with copies of the applicable insurance policies. If Motor Carrier fails to provide such proof, DCLI may, at its option, obtain separate insurance on behalf of Motor Carrier and charge the amount of any cost to Motor Carrier as additional usage charges.

10. Usage Charges. Motor Carrier shall pay DCLI, as a daily usage charge, an amount per calendar day, or any part thereof for each Genset, together with all additional charges herein, for as long as Motor Carrier retains possession of the Genset. The daily usage charge shall be as set forth on Exhibit C attached hereto or as subsequently published by DCLI at www.dcli.com, or such other website as identified by DCLI. Daily use charges may be changed by DCLI on thirty (30) days' notice published at www.dcli.com, or such other website identified by DCLI. The daily usage charge shall exclude any holidays set forth on www.dcli.com, or such other website identified by DCLI. Unless otherwise agreed in writing between Motor Carrier and DCLI, Motor Carrier shall be responsible for all fees, charges, fines, levies, penalties, summonses, impoundments, and towing arising during Motor Carrier's possession or use of a Genset. Motor Carrier shall not withhold any Genset on account of any dispute as to rates and/or alleged failures by DCLI to comply with the terms of this Agreement. Motor Carrier hereby waives and releases (and shall ensure that its sub-Motor Carriers, if permitted by DCLI, or other contractors waive and release) all liens, encumbrances or charges which Motor Carrier might otherwise have with respect to any Genset. DCLI will invoice Motor Carriers weekly, but only with respect to Genset that have been returned to DCLI. Payment shall be due to DCLI twenty-one (21) days after the relevant invoice date. Motor Carrier shall be required to pay a penalty for late payment at the rate of one and one-half percent (1.5%) per month for all payments received more than thirty (30) days after date of invoice. Motor Carrier acknowledges that DCLI reports customer payment histories to TransCredit, and hereby consents to DCLI's reporting of Motor Carrier's payment history and related information regarding Motor Carrier's usage of Genset to TransCredit in accordance with its reporting policies as may be in effect from time to time. DCLI's contact for billing inquiries is billing@DCLI.com.

11. Lost, Stolen or Destroyed Equipment. When a Genset is lost, stolen or destroyed while in Motor Carrier's possession, Motor Carrier must promptly provide notice to DCLI regarding the incident in accordance with the provisions of Section 18 of this Agreement, either by mail, facsimile or email, and follow any additional reporting requirements for lost, stolen or destroyed Genset published at www.dcli.com, or such other website identified by DCLI. Once notice is received, DCLI shall invoice the Motor Carrier an amount equal to nine thousand seven hundred dollars (\$9,700) for the depreciated replacement value of the Genset. Motor Carrier shall pay the specified amount within thirty (30) days, after which the late payment provision in Section 10 shall apply. The daily usage charge shall continue to accrue until such time as written notice of the incident is received by DCLI, and DCLI confirms receipt back in writing to Motor Carrier. In the event a Genset is lost, stolen or destroyed and DCLI invoices Motor Carrier the depreciated replacement value thereof, Motor Carrier shall pay such invoice directly to DCLI, and any such payment shall not be subject to or conditioned upon execution of any liability waiver or release or similar document which may be issued by Motor Carrier or its insurer.

12. Warranty Disclaimer and Remedy Limitation. EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT, DCLI MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY GENSET, EXCEPT THAT DCLI REPRESENTS THAT, AT THE TIME OF ANY DELIVERY TO MOTOR CARRIER HEREUNDER, DCLI HAS TITLE OR RIGHT OF POSSESSION AND USE OF THE RELEVANT GENSET. BY OUT-GATING WITH A GENSET, MOTOR CARRIER ACCEPTS EACH GENSET "AS IS" AND

EXPRESSLY DISCLAIMS ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY DCLI OR ANY PERSONS ON DCLI'S BEHALF. DCLI SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY TYPE OR CHARACTER RESULTING FROM THE USE, MISUSE, POSSESSION OR OPERATION OF ANY GENSET BY MOTOR CARRIER.

13. Liens and Taxes. Motor Carrier shall not mortgage, encumber or transfer any Genset or this Agreement in whole or in part. Motor Carrier shall keep each Genset free and clear of all levies, liens and encumbrances and shall pay all taxes (including sales and use taxes), assessments and similar charges, including any governmental fees and charges, on the use, transportation, repair or operation of each Genset in its possession under this Agreement; provided, however, that Motor Carrier shall not be responsible for any taxes on, or calculated by reference to, income of DCLI. Motor Carrier shall keep written logs of the locations where each Genset goes to and shall, upon request, supply DCLI with said logs for its review.

14. Compliance with Law. The parties shall obey and comply with all applicable federal, state and local laws, rules, regulations and ordinances (collectively, "Applicable Law") including, but not limited to, Applicable Law pertaining to the operation of intermodal equipment. Motor Carrier shall comply with all loading limitations, if any, prescribed by the manufacturers of the Genset, and shall prevent excessive impact of unbalanced or concentrated loads and pay all fines, expenses, charges or assessments of whatsoever nature which may arise out of the Motor Carrier's failure to comply with loading limitations or failure to prevent excessive impact or unbalanced or concentrated loads. Motor Carrier represents and warrants that it does not have an unsatisfactory safety rating issued by any regulatory authority with jurisdiction over Motor Carrier's operations including, without limitation, the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation. Motor Carrier shall ensure that during the term of this Agreement, it and the Genset are in compliance with Applicable Law and shall promptly notify DCLI of any damage or other condition of Genset which fails to comply with Applicable Law. Motor Carrier shall be responsible for, and shall pay, any and all fines, penalties, citations or other amounts assessed against it or DCLI by local, state, provincial or federal governmental authorities for the condition or use of any Genset while in Motor Carrier's possession and control. Motor Carrier shall promptly notify DCLI of any citation related to any Genset issued to Motor Carrier during the term of this Agreement, and provide proof of payment thereof by Motor Carrier. In the event the Genset is in any way involved in an accident, regardless of whether a citation is issued, Motor Carrier shall immediately notify DCLI.

15. Term. This Agreement shall begin on the date of execution hereof and continue for an indefinite period. Either party to this Agreement may, however, terminate this Agreement upon ten (10) days prior written notice. In the event of termination by the Motor Carrier, the terms of this Agreement shall remain in effect with respect to any unreturned Genset. Any termination of this Agreement shall be without prejudice to all rights accrued between the parties prior to the date of termination. DCLI may suspend Motor Carrier's privileges and/or place Motor Carrier on a "shut out" list under this Agreement for breach of any provision of this Agreement or any failure of Motor Carrier to promptly pay amounts owed to DCLI pursuant to this Agreement. DCLI shall provide at least five (5) days' notice prior to such suspension or "shut out" action, and such suspension or "shut out" will remain in effect, at DCLI's discretion, until such time as any breach is cured and/or any amounts outstanding are paid.

16. Remedies of DCLI. Any of the following shall be deemed an Event of Default: (a) any breach or failure of Motor Carrier to observe or perform any of its obligations under this Agreement; (b) dissolution, liquidation, or termination of the business of Motor Carrier, insolvency or failure of Motor Carrier to pay its debts as they mature in the ordinary course of business; the making of an assignment for the benefit of the creditors of Motor Carrier; or the filing of a voluntary petition in bankruptcy by Motor Carrier; or other actions of a similar nature; (c) the taking by any party of any Genset, or any part thereof, upon foreclosure, levy, execution, attachment or other process of law or equity enforced against Motor Carrier; or (d) if, in DCLI's reasonable opinion, Motor Carrier has neglected, abused or misused any Genset in any way. Waiver of any default shall not be a waiver of any other or subsequent default or other condition or term of this Agreement. Upon the occurrence of an Event of Default, DCLI may, at its sole discretion, and in addition to any other remedy or right it has hereunder or by law: (i) immediately terminate

this Agreement by providing notice to Motor Carrier; (ii) require Motor Carrier to make available or deliver any Genset to DCLI at such location as DCLI may designate; (iii) enter upon any premises where any Genset is located, and without notice or demand, remove such Genset, whether with or without process of law; and/or (iv) render all or any part of the Genset unusable. Upon the occurrence of an Event of Default, Motor Carrier shall immediately pay to DCLI without further demand all unpaid daily usage charges and other sums due under this Agreement. Daily usage charges shall continue to accrue on Gensets in Motor Carrier's possession until such time as each such Genset has been returned to and accepted by DCLI. Motor Carrier shall also pay DCLI's actual costs and expenses incurred in connection with taking possession of any Genset and/or the collection of daily usage charges, enforcement, assertion, defense or preservation of DCLI's rights and remedies under this Agreement following any Event of Default. In addition to all collection costs, including reasonable attorney fees, late payment penalties (as provided for in Section 10) shall apply. DCLI shall have the right to offset any amounts due from Motor Carrier against other funds or property of Motor Carrier held by DCLI. The foregoing remedies are cumulative, and any or all thereof may be exercised instead of or in addition to each other or any remedies at law, in equity, or under statute.

17. Governing Law. This Agreement is to be governed by the laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. Motor Carrier hereby consents and agrees to the exclusive jurisdiction and venue of the state and federal courts of New York, New York for any and all disputes, claims or other actions arising out of this Agreement.

18. Notices. All notices required to be given in writing hereunder shall be given by personal delivery, by facsimile or other electronic means (including via email), by registered or certified first-class U.S. mail, return receipt requested and postage prepaid, or by express courier or recognized overnight delivery service, charges prepaid, and shall be delivered to the address set forth below, or to such other address as either party shall provide in accordance with the terms of this Section 18.

If to DCLI, to:

Direct ChassisLink, Inc.
3525 Whitehall Park Dr., Suite 400
Charlotte, NC 28273-4279
Attention: Patrick Valentine
Email: Patrick.Valentine@dcli.com

If to Motor Carrier, to:

Motor Carrier Name: _____
Address Line 1: _____
Address Line 2: _____
Attention: _____
Email: _____

Notice shall be deemed given: (a) when delivered personally to the recipient; (b) when received, if sent by facsimile or electronically (confirmation of such receipt by facsimile transmission or electronic transmission being deemed receipt of communications sent by telecopy or electronically); (c) on the date five (5) days after the date mailed, if sent by registered or certified first-class U.S. mail, return receipt requested and postage prepaid; and (d) when delivered (or upon the date of attempted delivery where delivery is refused), if sent by express courier or recognized overnight delivery service, charges prepaid. Notice of any change in any such address, facsimile number or email address shall also be given in the manner set forth above.

19. Assignment. Motor Carrier shall not assign (whether directly, indirectly, by operation of law or otherwise) this Agreement or assign or sublet any Genset or any portion thereof without, in each instance, the prior written

consent of DCLI. DCLI may assign or transfer this Agreement without the consent of Motor Carrier and, after such assignment or transfer, upon notice to Motor Carrier, DCLI shall be released from all obligations under this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

20. Entire Agreement; Amendment; Waiver; Severability; Confidentiality; Dispute Resolution. This Agreement, together with the applicable Chassis Interchange Agreement, contains the entire agreement between the parties and supersedes all previous agreements, including the Uniform Intermodal Interchange and Facilities Access Agreement, with respect to the subject matter hereof. Regardless of whether they are required by law, any provision of Motor Carrier's tariff, terms and conditions, service guide, bill of lading or any other document which is inconsistent with the terms of this Agreement, or which addresses matters not addressed herein, are inapplicable to the parties to this Agreement with respect to the subject matter hereof. This Agreement may not be amended or modified orally. No amendment, modification or release from any provisions hereof shall be effective unless in writing and signed by both parties specifically stating it is an amendment to this Agreement. The failure of either party to require the performance of any provision of the Agreement or the waiver by either party of any breach under this Agreement shall not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Motor Carrier hereby acknowledges and agrees that this Agreement and the terms and conditions hereof are confidential and proprietary information of DCLI and Motor Carrier shall not disclose the existence of this Agreement or the terms and conditions hereof to any third person or entity without the express written consent of DCLI, which may be granted or withheld in DCLI's sole and absolute discretion. The parties will use commercially reasonable efforts to resolve disputes with respect to this Agreement. This Agreement may be executed in counterparts, each of which shall be an original, but all such counterparts shall together constitute one and the same agreement.

21. MOTOR CARRIER ACKNOWLEDGES AND AGREES THAT IT HAS READ AND UNDERSTANDS ALL PROVISIONS OF THIS AGREEMENT AND AGREES TO COMPLY WITH ITS REQUIREMENTS.

[Signature Page Follows]



IN WITNESS WHEREOF, DCLI and Motor Carrier have executed this Agreement on the date set forth above.

DIRECT CHASSISLINK, INC.

MOTOR CARRIER

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

DCLI START/STOP LOCATIONS

Please refer to the DCLI web site at <http://dcli.com/gensets/>, or such other website identified by DCLI, to view a list of the DCLI Genset Start/Stop locations.

EXHIBIT B

DCLI M&R AND EMERGENCY ROAD SERVICE POLICIES

Please refer to the DCLI web site at <http://dcli.com/road-service/>, or such other website identified by DCLI, to view the DCLI Emergency Road Service Procedure for Gensets.

Subsequent changes to DCLI's M&R and emergency road service policies shall be announced by DCLI on its website at www.dcli.com, or such other website identified by DCLI.

EXHIBIT C

DAILY USAGE CHARGES

Please refer to the DCLI web site at <http://dcli.com/gensets/>, or such other website identified by DCLI, to view the daily genset w/ chassis or genset only usage charges, the fuel and fueling charges and the mount and dismount charges.