

## AGREEMENT/CONTRACT FOR TRANSPORTATION SERVICES

**AGREEMENT** made on this 8th day of July, 2004, by and between **SOS Metals, Inc.**, and its **AFFILIATED COMPANIES** (see listing on page 5), hereinafter designated "**SOS**", and the carrier stated herewith as: \_\_\_\_\_ and hereinafter designated as "**Carrier**", have agreed as follows:

**WHEREAS, SOS** in the usual and ordinary conduct of its business, requires transportation by motor truck of its products, materials, and equipment (the "Commodities"); and

**WHEREAS, Carrier** is engaged in the transportation of commodities by motor truck and has been so licensed within the intent of Paragraph 9 herein, and is willing and desirous of transporting commodities tendered to it by **SOS**;

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants hereinafter contained, the parties hereto have and do hereby agree as follows:

**1.** Subject to the terms and conditions hereof, **Carrier** agrees that upon the request of **SOS** it will transport and deliver continuing shipments of commodities, totaling 100,000 pounds or more per annum, between the place or places of establishment of **SOS** on the one hand, and on the other hand the various points within **Carrier's** scope of authority and operational readiness. Failure by either party to fulfill this annual shipping agreement, resulting in dormancy, will void this contract, without penalty to either party.

Rules and Regulations governing commodities transported by **Carrier** under this agreement will be those stipulated in this contract narrative or in the attached schedule(s) and/or appendix(es) of Rules, Rates, and Charges, and made a part hereof.

Each shipment transported hereunder shall be evidenced by a receipt in the form specified by **SOS**, signed by **Carrier** and the consignee or consignees, showing the kind and quantity of the cargo received and delivered by **Carrier**. Absence or loss of such receipt form, however, shall not relieve **Carrier** of responsibility for the freight received and accepted by it.

**2.** **SOS** agrees to compensate **Carrier** for transportation services performed at the rates and charges provided, in the appendixes and schedules attached hereto, promptly upon receipt of statements and bills therefore from **Carrier**; and such payment shall be made within fifteen (15) days of receipt of billing. **Carrier** may collect its freight charge from the consignee(s) or consignor(s) of the shipment involved. **SOS** guarantees full payment to **Carrier** in the event consignee(s)/consignor(s) fail or refuse payment.

All rates agreed to hereunder preempt any other rates which **Carrier** may have on file for the transportation of commodities. The rates agreed to are not subject to rules or exceptions that may apply in any **Carrier** tariff, except such rules or exceptions as may be recited in this agreement.

The parties have negotiated the rates herein and have used due diligence in investigating and determining to their mutual satisfaction that the rates reflected by this Contract are reasonable under all circumstances and reflect market price. In the event of any subsequent determination by any court or administrative agency that any or all of said rates are unreasonable, each party agrees to hold the other harmless.

**3. Carrier** agrees to maintain and have available a sufficient amount of specialized equipment designed for the purpose of hauling **SOS's** commodities. Such equipment includes flatbed trailers with sidekits (tarp trailers may sometimes be substituted if agreed to between **SOS** dispatcher and **Carrier**), a minimum of ten (10) chains and binders, three (3) sets of coil racks, and at least twenty (20) edge protectors per trailer.

In addition to the above, **SOS's** needs may include any of the following or other distinct requirements, as agreed: scheduled pick-ups, transit time standards, scheduled deliveries, multiple pick-up and stop-off deliveries, specialized trailer equipment, load protection from weather, load tracking services, stringing services, overdimensional load services, and storage in transit or milling in transit services.

**4.** In addition to transportation services designed to meet the distinct needs of **SOS** as in paragraph **3** above, **SOS** may have need of motor vehicles assigned to **SOS** for a continuing period of time for the exclusive use of **SOS**. In the event **Carrier** assigns such equipment to **SOS**, said vehicles and applicable rates and charges will be listed in the appropriate Schedule(s)/Appendix(es) attached hereto and made a part hereof.

**5. Carrier** agrees to have capable and well trained crews, for the purposes of fulfilling **Carrier's** obligations under this agreement, including drivers skilled at loading, securing, and protecting steel coils and sheets. As an independent contractor **Carrier** shall have exclusive control and direction of the persons operating the equipment engaged in the transportation services hereunder.

**SOS** shall make a reasonable effort to keep **Carrier** advised of any equipment changes needed by **SOS**.

**Carrier** covenants and agrees to transport safely and deliver undamaged all commodities tendered to it by **SOS**, without delay, and in good workmanlike manner.

**6.** In case any accident or other delay occurs on the road which would cause undue delay in delivery to the consignee, **Carrier** agrees to telephone or FAX **SOS** immediately after the occurrence of such accident or delay.

**7. Carrier** agrees to assume and bear all risk growing out of employees for (a) any and all injury or damage occurring in or directly or indirectly arising out of performance of this contract to (1) the property and premises of **SOS**, (2) the property and premises of any other person, (3) any property or equipment used or to be used or incorporated in the performance of this contract; and, (b) **Carrier** agrees to obtain at its sole cost and expense, insurance covering the risks incident of this contract including Workman's Compensation, Occupational Disease, as required by law, and Combined Single Limit Insurance in the amount of \$1,000,000.00 in such companies as **SOS** shall approve, and to file with **SOS** before commencement of work hereunder, duly executed insurance

certificates therefore, which certificates shall name **SOS** as additional insured, and provide that said policies shall not be canceled or changed without prior written notice thereof to **SOS**. **Carrier** further agrees to comply with all applicable federal and state laws relating to wages, hours, and conditions of labor, and so-called social security and unemployment insurance laws.

**8. Carrier** hereby covenants and agrees to be fully responsible for and to indemnify and save harmless **SOS** on account of, loss of, or damage to any and all commodities transported for **SOS** by **Carrier** under the terms of this agreement. **Carrier** agrees to be liable to **SOS** for any damage sustained or liability incurred by **SOS** because of any undue delay of **Carrier** or its agents and employees, in the transportation of commodities entrusted to **Carrier** and in the performance of any other obligation of **Carrier** under this agreement.

**Carrier** further covenants and agrees, and it hereby binds itself, at its own sole cost and expense, to defend and save harmless **SOS** from and against any and all manner of suits, claims, demands, costs, charges, debts, dues, liabilities, and payments of money of any sort or nature whatsoever on account of injury to or the death of persons or loss of or damage to property in any manner whatsoever, arising out of or predicated upon the operations of the trucks of or by **Carrier**, its agents or employees, or the conduct of the business of **Carrier**, or the transportation and handling of goods by **Carrier**, its agents or employees in any manner however, whether pursuant to the terms of this Agreement or otherwise. The aforesaid Certificates of Insurance shall show that this Hold Harmless Agreement has been insured. The foregoing indemnity shall not apply to the extent that such loss or damage is caused by the willful or negligent act of **SOS** its agents or employees.

**9. Carrier** represents and covenants that it will obtain all federal, state, and local licenses, permits, and authority required by virtue of the activities carried on by it hereunder, and that it has and will comply with all applicable federal, state, and local laws, and all applicable rules and regulations of any federal, state, and/or other regulatory body having jurisdiction in the premises, and with any and all applicable amendments to such laws and rules and regulations now or hereafter enacted or promulgated. Compliance, or failure to comply, with all laws, rules, and regulations shall not, however, relieve **Carrier** of any of its obligations to **SOS** under the terms of this Agreement.

**10.** Performance of this Agreement by either **SOS** or **Carrier** is subject to delay or failure caused by existing or future strikes, lockouts, or other labor disturbances, war, insurrection, shortage of raw materials, accident or disaster, embargo, fire, flood, storm, or the requirement, order, requisition, or necessity of any federal or state government or by reason of causes of circumstances beyond the control of either party.

**11.** It is expressly understood and agreed that the business of **Carrier**, or its agents or employees, is in all respects a separate and distinct business from that of **SOS**, and that **Carrier**, and its agents or employees, is with respect to **SOS**, an independent contractor and not an agent, servant, or employee of **SOS**, anything herein contained to the contrary

notwithstanding. **Carrier** agrees to be responsible for and be bound by all acts or omissions of its agents and employees.

**12.** This Agreement may not be assigned by either party hereto without the consent in writing of the other party.

**13.** This Agreement shall continue for the period of one (1) year from the date hereof and shall continue indefinitely thereafter subject to cancellation at any time after the original one (1) year period by either party upon not less than thirty (30) days prior written notice to the other party, or dormancy as stated in Paragraph 1 herein.

**14.** Any notice shall be deemed to have been properly given to a party hereto if sent by prepaid certified mail, with return receipt, to such party at its address shown below.

**15.** This agreement shall not be changed, waived, or modified except by an addendum in writing signed by the parties. This agreement sets forth the entire agreement between the parties with respect to the subject matter of this agreement, and any prior understandings, proposals, representations, or agreements between the parties shall be deemed to have merged into this agreement and are superseded by this agreement. Bills of lading, used to ship the commodities under this agreement, are used as convenience documents, and do not, in effect, create a contract which supersedes this document. This agreement shall be governed by the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties hereto have caused with this Agreement to be executed as of the day and year first above written.

SOS Metals, Inc.  
9050 Centre Point Drive, Suite 200  
West Chester, Ohio 45069

Carrier:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By Kim Skirvin  
Kim Skirvin, Traffic Supervisor

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

Date: 7/8/2004

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

SOS Metals, INC.  
its locations and affiliated companies:

SOS Metals, INC.  
9050 Centre Point Drive, Suite 200  
West Chester, Ohio 45069

SOS Middletown Plant  
1701 M.A.D.E. Drive  
Middletown, Ohio 45042

SOS Leveling  
1501 M.A.D.E. Drive  
Middletown, Ohio 45042

SOS Blue Sky Plant  
1801 M.A.D.E. Drive  
Middletown, Ohio 45042

SOS dba J. R. Metals  
9050 Centre Point Drive, Suite 220  
West Chester, Ohio 45069

SOS Lawrenceburg Plant  
201 Helton Street  
Lawrenceburg TN 38464