DECLARATION OF INTERSTATE RECIPROCITY AGREEMENT BETWEEN THE STATE OF OKLAHOMA AND THE STATE OF KANSAS

THIS RECIPROCITY AGREEMENT is entered into by the Kansas Department of Revenue, Division of Vehicles (hereinafter "KS DMV") and the Oklahoma Department of Public Safety (hereinafter, "ODPS").

COPY

WITNESSETH:

WHEREAS, the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570 (49 United States Code Chapter 313), requires any person who operates a vehicle in commerce designed to transport 16 passengers or more (including the driver) or property: with a gross vehicle weight rating of at least 26,001 pounds, or a lesser gross vehicle weight, if prescribed by the Federal Motor Carrier Safety Administration in an administrative rule; or used to transport hazardous material to obtain a commercial driver's license; and,

WHEREAS, in its administrative rules implementing the Commercial Motor Vehicle Safety Act of 1986, the Federal Motor Carrier Safety Administration has authorized states to exempt certain drivers, including operators of farm vehicles, from the commercial driver's license requirements pursuant to Title 49, Code of Federal Regulations (hereinafter "CFR") Part 383.3(d); and,

WHEREAS, operating under the authority granted by 49 CFR 383.3(d), the Kansas and Oklahoma legislatures have both enacted laws exempting operators of farm vehicles from the commercial driver's license requirement (see Kansas Statutes Annotated 2010 Supp. § 8-2,127(a); Oklahoma statutes, title 47, section 1-107.4); and,

WHEREAS, 49 CFR 383.3(d) limits the use of a farm vehicle exemption to the driver's home state, unless the home state has entered into a reciprocity agreement with adjoining states; and,

WHEREAS, the KS DMV and the ODPS wish to enter into a reciprocal agreement to allow operators of farm vehicles licensed in either Kansas or Oklahoma to be exempt from the commercial driver's license requirement when such operators are operating farm vehicles in the other participating state, provided such operation is consistent with the exemption in 49 CFR 383.3(d) and each state's respective state law on farm vehicle exemptions to the commercial driver's license requirement; and,

WHEREAS, an agreement is necessary to document the rights and responsibilities of the KS DMV and the ODPS regarding this reciprocity agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

(1) DURATION OF RECIPROCITY AGREEMENT: This Reciprocity Agreement shall be in effect commencing on the date the Reciprocity Agreement is last executed by both the KS DMV and the ODPS and shall continue until one of the parties terminates the agreement, as described in paragraph (4) below, or a statutory change becomes effective that prohibits the use of reciprocal agreements to extend commercial driver's license exemptions to adjoining states. Should either state or federal law ever prohibit the reciprocity contemplated herein, this Reciprocity Agreement shall become null and void.

(2) OBLIGATIONS OF PARTIES: The KS DMV and the ODPS agree that any driver from either Kansas or Oklahoma who possesses a valid non-commercial driver's license may operate a farm vehicle within either state if the farm vehicle:

(A) Is properly operated as a farm vehicle under the laws of either state;

(B) Is controlled and operated by a farmer, including operation by his or her employees or family members, so long as the operator holds a valid driver's license in either state;

(C) Is used exclusively to transport agricultural products, and/or farm machinery, and/or farm supplies, to or from the farmer's farm;

(D) Is not used in the operations of a common or contract carrier;

(E) Is properly registered as a farm vehicle; and

(F) Is only used within 150 miles of the farmer's farm.

(3) COOPERATION AND DISCLOSURE OF INFORMATION: The parties agree to notify one another prior to promulgating any administrative rules regarding the terms of this Reciprocity Agreement or regarding the commercial driver's license exemption for operators of farm vehicles.

(4) TERMINATION:

A. Termination for Material Breach of Obligations: The parties each have the authority to terminate this Reciprocity Agreement at any time for a material breach of contractual obligations by providing the other party with written notice of termination. Should either party exercise its right to terminate the contract for such reasons, termination will become effective 30 days after written notice is provided to the stakeholders of this Reciprocity Agreement.

B. Termination Without Cause: The parties each have the authority to terminate this Reciprocity Agreement at any time without cause by providing the other party with written notice of termination. Should either party exercise its right to terminate the contract without cause, termination will become effective ninety (90) days after written notice is provided to the parties.

(5) SUCCESSORS AND ASSIGNS: The parties agree that this Reciprocity Agreement and all agreements entered into under the provisions of this Reciprocity Agreement shall be binding upon the parties hereto and their successors and assigns.

(6) RESPONSIBILITIES OF THE PARTIES: Each party will be responsible for its own acts and the results arising from those acts and shall not be responsible for the acts of the other party and the results arising from those acts. Each party agrees, to the extent allowed by law, that it will assume all risk and liability to itself, its agents or employees for any injury to persons or property resulting from any operations or conduct of its agents or employees under this Reciprocity Agreement. Each party's liabilities shall be governed by applicable state law. Nothing in this agreement shall be deemed to create any type of agency/agent relationship between the respective states and/or the named state agencies.

(7) VENUE: Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Reciprocity Agreement, or regarding its alleged breach, shall be instituted only in the District Court of Shawnee County, Kansas or in the District Court of Oklahoma County, Oklahoma.

(8) SOLE BENEFICIARY: This Reciprocity Agreement is made for the sole benefit of the parties hereto and nothing in this Reciprocity Agreement shall be construed to give any rights or benefits to anyone other than the KS DMV and the ODPS. Nothing in this Agreement shall be deemed to create or give rise to any right of action in, or any liability to, or any third party claiming to have suffered a loss, damage or injury by virtue of any alleged failure by either party to comply with the terms of this Reciprocity Agreement. This Reciprocity Agreement does not grant any rights to any party except Kansas and Oklahoma.

(9) AMENDMENTS: Any change in this Reciprocity Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the KS DMV and the ODPS.

(10) KS DMV REPRESENTATIVE: The KS DMV's Director of Vehicles is designated as the KS DMV's representative for the purpose of administering the provisions of this Reciprocity Agreement. The KS DMV's representative may designate by written notice other persons having the authority to act on behalf of the KS DMV in furtherance of the performance of this Reciprocity Agreement.

(11) ODPS REPRESENTATIVE: The Commissioner of ODPS is designated as the ODPS's representative for the purpose of administering the provisions of this Reciprocity Agreement. The ODPS's representative may designate by written notice other persons having the authority to act on behalf of ODPS in furtherance of the performance of this Reciprocity Agreement.

(12) CONSENT FOR ASSIGNMENT: No party to this Reciprocity Agreement shall assign, transfer, or delegate any interest in this Reciprocity Agreement without the prior written consent of the other party.

(13) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the KS DMV:

Carmen Alldritt
Director of Vehicles
Docking State Office Building, Room 162
915 SW Harrison Street
Topeka, KS 66626
Fax: (785) 291-3755

B) To ODPS:

Kevin L. Ward
Commissioner, Oklahoma Department of Public
P.O. Box 11415
Oklahoma City, OK 73136
Fax: (405) 425-2324

(14) SECTION HEADINGS: All section headings contained in this Reciprocity Agreement are for the convenience of reference only and are not

intended to define or limit the scope of any provision of this Reciprocity Agreement.

(15) CONTRACT LANGUAGE: The language of this Reciprocity Agreement reflects negotiations between the KS DMV and ODPS, each of which have had the opportunity to modify the text. In the event of litigation or other dispute concerning the language of this Reciprocity Agreement, general rules construing ambiguities against the drafter shall not apply.

(16) AUTHORITY TO EXECUTE: The signers of this Reciprocity Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Reciprocity Agreement.

(17) ENTIRE AGREEMENT: This Reciprocity Agreement represents the entire understanding and agreement between the parties hereto regarding this subject and supersedes all prior understandings, communications and agreements, written or oral between the parties hereto with respect to the subject matter hereof.

(18) SOVEREIGN IMMUNITY: Nothing herein shall be construed as consent by the State of Kansas to suit in the courts of the State of Oklahoma or a waiver of its sovereign immunity or rights under the Eleventh Article of Amendment to the Constitution of the United States. Nothing herein shall be construed as consent by the State of Oklahoma to suit in courts of the State of Kansas or a waiver of its sovereign immunity or rights under the Eleventh Article of Amendment to the Constitution of the United States. Nothing herein waives or limits sovereign immunity under federal or state statutory or constitutional law. The Eleventh Amendment is an inherent and incumbent protection with the States of Kansas and Oklahoma and need not be reserved, but prudence requires the States to reiterate that nothing related to this Agreement shall be deemed a waiver of the Eleventh Amendment. Nothing in this Reciprocity Agreement shall be deemed to create or give rise to any right of action in, or any liability to, or any third party claiming to have suffered a loss, damage or injury by virtue of any alleged failure by either party to comply with the terms of this Reciprocity Agreement. This Reciprocity Agreement does not grant any rights to any party except Kansas and Oklahoma. Nothing in this Reciprocity Agreement shall be considered as a waiver by the State of Kansas of any provisions of the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.* Nothing in this Reciprocity Agreement shall be considered as a waiver by the State of Oklahoma of any provisions of the Oklahoma Governmental Tort Claims Act, 51 O.S., §§ 151 *et seq.*

(19) APPLICABLE TO FARM VEHICLES ONLY: This Reciprocity Agreement is limited to commercial driver's license exemptions for operators of

farm vehicles, as specified in Paragraph (2). All other laws governing motor vehicles and driver's licenses administered by the respective parties remain in full force and effect.

(23) LEGAL AUTHORITY: That under K.S.A. 8-127(b) and K.S.A. 74-4302, the Director of Vehicles for KS DMV has authority to enter into this Reciprocity Agreement. That the Parties believe it to be beneficial to both States, their citizens, and agricultural industries, if the States entered into this Reciprocity Agreement granting interstate reciprocity and proportional licensing upon terms set out herein.

(24) OTHER STATE AGENCIES: In addition to the parties executing this Reciprocity Agreement, the terms and conditions of this Reciprocity Agreement have been circulated amongst the affected Kansas agencies, Kansas Highway Patrol and the Kansas Corporation Commission, and appropriate representatives of such agencies have been advised and do not object to the parties entering into this Reciprocity Agreement is in the best interests of their respective states. Each State shall distribute this agreement to any other state agency or political subdivision within the respective States necessary to carry out the letter and intent of this Reciprocity Agreement.

[*Remainder of page intentionally left blank.*]

IN WITNESS WHEREOF, the parties have entered into this Reciprocity Agreement on the date last written below.

Executed by the ODPS this 6 day of January, 2011.

Executed by the KS DMV this 3 day of Jan, 2011.

KANSAS DEPT. OF REVENUE
DIVISION OF VEHICLES

By _____

Title: Director of Vehicles

ATTEST:

_____

Secretary to the KS Director

Approved as to Form:

_____
KS DMV Counsel

OKLAHOMA DEPARTMENT
OF PUBLIC SAFETY

By _____

Title: Commissioner of Public Safety

ATTEST:

_____

Title:

Approved as to Form:

_____
ODPS Counsel

Acknowledged and approved by:

KANSAS HIGHWAY PATROL

By _____
Major Alan Stoecklein
Acting Superintendent

Approved as to Form:

_____
Counsel

KANSAS CORPORATION
COMMISSION

By _____
Executive Director

Approved as to Form:

_____
Counsel