



Carrier Profile

CARRIER NAME: _____
PHYSICAL ADDRESS: _____
CITY/ST/ZIP: _____
SCAC CODE: _____ MC NUMBER: _____ USDOT NUMBER: _____ HAZMAT Yes No

OPERATIONS INFORMATION

HOURS OF OPERATION: _____
CONTACT NAME: _____ PHONE: _____
EMAIL: _____ FAX: _____

AFTER HOURS INFORMATION

CONTACT NAME: _____
PHONE: _____ FAX: _____
EMAIL: _____

BILLING INFORMATION

REMIT TO NAME: _____
FULL ADDRESS: _____
BILLING CONTACT: _____
PHONE: _____ FAX: _____
EMAIL: _____ FED TAX ID: _____
CARGO INSURANCE COVERAGE: _____

FLEET INFORMATION

COMMUNICATION (CHECK ALL THAT APPLY): SATELLITE TRACKING CELL PHONES
CAPACITY (QUANTITY OF EACH TYPE): CARGO VANS: _____ SPRINTERS: _____ LARGE STRAIGHTS: _____
TRACTORS: _____ FLAT BEDS: _____ REEFERS: _____ LIFT GATES: _____ DROP DECK: _____
DOUBLE DROP: _____ RGN: _____ STEP DECK: _____

LOAD OFFERS:

RECEIVE OUR LOADS: _____
WHERE DO YOU POST AVAILABLE TRUCKS? _____

Please Return the following to: Fax 708-515-9743

COMPLETED CARRIER PROFILE, SIGNED MOTOR CARRIER TRANSPORTATION AGREEMENT, COPY OF OPERATING AUTHORITY, W-9, CURRENT CERTIFICATE OF INSURANCE SHOWING: T.A.T. Logistics, Inc AS THE CERTIFICATE HOLDER & INSURANCE COVERAGE LIMITS DESCRIBED IN THE ATTACHED

MOTOR CARRIER TRANSPORTATION AGREEMENT

THIS MOTOR CARRIER TRANSPORTATION AGREEMENT (“Agreement”) is made on _____, 20__ between _____ (“CARRIER”) and one or more of the following distinct corporate entities that execute this Agreement as set forth in the signature page hereof: T.A.T. Logistics, Inc

and any other companies owned or affiliated with any of the listed entities (individually and collectively referred to as “BROKER”).

BROKER is licensed as a property broker by the Federal Motor Carrier Safety Administration (“FMCSA”) and as a licensed property broker arranges transportation under its contracts with its customers (“Customer”); and

BROKER desires to engage CARRIER as an independent contractor to perform transportation within the limits of CARRIER’s operating authorities according to this Agreement’s terms and conditions, and CARRIER desires to perform such transportation.

THEREFORE, IN CONSIDERATION of the mutual promises and covenants herein contained, BROKER and CARRIER agree as follows:

1. SCOPE AND CARRIER REQUIREMENTS

- 1.1 Each BROKER entity listed above is entering into this Agreement as an individual entity, and consents to the execution of this Agreement by any authorized officer of any BROKER entity listed above solely to obtain the convenience of a single document. CARRIER acknowledges and agrees that any and all transportation services provided by CARRIER to an individual BROKER entity, except as may be specified in Appendix D attached hereto, shall be subject to and governed by the terms and conditions of this Agreement, together with the specific load tender sheet or other load tendering mechanism, which shall be construed and enforced as if there was a separate written agreement between each individual BROKER entity and CARRIER. CARRIER further acknowledges and agrees that its rights and remedies under this Agreement in relation to any given shipment shall be pursued only against the specific BROKER entity to whom the transportation services in question were provided, as evidenced by the applicable load tender sheet(s) or other load tendering mechanism. No joint or cross liability shall arise against, between or among the BROKER parties. None of the BROKER parties shall be considered a “motor carrier” for any purpose of this Agreement.
- 1.2 CARRIER represents and warrants that at all times during this Agreement it will be duly and legally qualified and registered in accordance with, and shall provide its pickup, transportation and delivery services in accordance with all federal, state, provincial, territorial, and local laws, statutes, regulations, rules, and ordinances, including but not limited to those related to transportation and storage of food or pharmaceutical grade products, and any environmental or emissions-related laws (collectively, “Applicable Law”), to provide the transportation services contemplated herein as a contract motor carrier in interstate, intrastate, provincial and/or foreign commerce, and that it does not have an unsatisfactory or unfit safety rating issued by any regulatory authority with jurisdiction over CARRIER’s operations, including, but not limited to, the FMCSA. CARRIER further agrees to comply with all Applicable Law in the performance of its services under this Agreement. Upon receiving an unsatisfactory safety rating or otherwise being prohibited by Applicable Law from performing services hereunder, CARRIER shall immediately notify BROKER of such fact and cease performing transportation services hereunder until CARRIER is once more in compliance and BROKER expressly permits CARRIER to perform services hereunder. The foregoing shall not be construed as limiting BROKER’s right to terminate this Agreement in accordance with Section 2.2 below. Upon BROKER’s request, CARRIER shall provide proof of CARRIER’s compliance with Applicable Law by providing BROKER with all relevant documentation. Without limiting the foregoing, all persons employed or otherwise utilized by CARRIER to provide services hereunder shall be qualified pursuant to applicable federal, state and municipal safety standards, including but not limited to the provisions of 49 C.F.R. §§ 382, 383, 391 and 392 and shall be fully trained at CARRIER’s expense to operate the equipment.
- 1.3 Where CARRIER accepts the tender of cargo that is defined as hazardous material or dangerous goods under Applicable Law, CARRIER will maintain hazardous certification for all drivers who provide transportation services for such hazardous cargo, and will comply with all applicable regulations and requirements for handling such materials. By accepting any shipment of hazardous material, CARRIER warrants that it will be licensed, qualified and certified to transport the shipment, has the insurance required by 49 C.F.R. 387.7 and 387.9 (or successor regulations thereto), has and will use all proper and legally compliant equipment suitable to transport such specific hazardous materials in a safe and efficient manner, and will comply with all Applicable Law respecting the transport of such hazardous materials or dangerous goods.
- 1.4 At all times during CARRIER’s provision of transportation services for in-bond shipments under this Agreement, if any, CARRIER will maintain its qualification to handle in-bond shipments and will inform BROKER of CARRIER’s in-bond status and its in-bond number.
- 1.5 CARRIER shall use its best efforts to ensure the accuracy and completeness of the following: (a) manual and electronic invoicing; (b) manual and electronic operational updates; (c) equipment insurance, equipment age, any applicable federal, state, or provincial safety ratings; and (d), fuel receipts, drivers’ logs, shipment receipts and other documentation and records reasonably necessary to permit BROKER to confirm CARRIER’s compliance with this Agreement.

2. TERM AND TERMINATION

- 2.1 This Agreement shall be effective for a period of one year from the date of execution and shall be automatically renewed for additional one (1) year periods unless cancelled by either party upon thirty (30) days written notice to the other party or terminated in accordance with this Agreement. Termination shall not affect CARRIER's obligations to deliver, in accordance with the terms of this Agreement, all shipments accepted from BROKER prior to the termination date.
- 2.2 BROKER may additionally terminate this Agreement immediately upon written notice in any of the following events:
- (a) CARRIER loses its operating authority or otherwise becomes disqualified to perform its obligations under this Agreement;
 - (b) CARRIER breaches any covenant, obligation, condition, or requirement imposed upon it by this Agreement, and such breach continues for a period of ten (10) days after written notice thereof from BROKER to CARRIER, unless BROKER is required by its agreement with a customer to terminate this Agreement immediately upon such breach, or continuation of such breach would reasonably cause BROKER material harm, in which case such ten (10) day period shall not apply; or
 - (c) CARRIER becomes insolvent or becomes unable to pay its debts in a timely manner.

3. TENDER OF SHIPMENT

- 3.1 BROKER agrees to tender to CARRIER, and CARRIER agrees to accept from BROKER, shipments during the term of this Agreement in accordance with this Agreement and pursuant to specifications contained in any applicable load tender sheet specific to the shipment or a series of shipments. CARRIER agrees that correspondence regarding such load tender sheets, or on issues respecting shipments, may be conducted by facsimile or email. CARRIER acknowledges that this Agreement is non-exclusive, that BROKER is not obligated to utilize CARRIER's services, and that there are no guarantees of shipment volume and/or any specific lane volumes to be tendered hereunder.
- 3.2 CARRIER shall fully complete and sign (including the printed name of the driver) a written receipt or bill of lading for all shipments transported hereunder. Such receipt or bill of lading shall detail the kind, quantity and condition of commodities received, CARRIER's name, together with the consignor, consignee or owner of the property transported where applicable. Such receipt or bill of lading shall be prima facie evidence of receipt of the shipment in good order and condition by CARRIER unless otherwise noted on the face of said document; CARRIER shall be responsible for ensuring that all freight is properly blocked and loaded, and CARRIER agrees to notify BROKER when CARRIER takes possession of cargo that is packaged in a manner that is visibly not adequate or acceptable for normal transportation. Any incorrect identification of BROKER as a carrier under such bill of lading shall not affect BROKER's status as a property broker nor relieve CARRIER of any of its obligations hereunder.
- 3.3 The receipt or bill of lading, which may be prepared by BROKER or consignor, shall serve only as a receipt for the goods (and not as the contract of carriage, nor as evidence of title). Except as specifically agreed to in Appendix D of this Agreement, all shipments accepted for transportation by CARRIER, whether transported by CARRIER or by any permitted interlining carrier, shall be governed solely by this Agreement, and no provision of any other pre-printed publication or agreement, such as the receipt, bill of lading, CARRIER's private tariffs or the National Motor Freight Classification, shall apply; PROVIDED HOWEVER that a bill of lading may also contain instructions or specifications pertaining to the transportation of the goods covered by the bill of lading and the CARRIER's issuance or acceptance of the bill of lading shall constitute agreement to follow or perform said instructions or specifications. Where there is a contradiction between the terms of a load tender sheet and any terms set out on the bill of lading relating to such shipment(s), CARRIER agrees to immediately contact the particular BROKER entity identified on the load tender sheet for instructions.
- 3.4 CARRIER must ensure that CARRIER's name is clearly stated as the carrier of record on the receipt or bill of lading. CARRIER acknowledges that failure to do so may delay payment until any discrepancy is resolved to BROKER's satisfaction.

4. PERFORMANCE OF SERVICES

- 4.1 CARRIER shall load, transport, deliver and unload all freight specified on each load tender sheet in a safe and secure manner (which obligation includes, but may not be limited to, adequately securing trailers at all times, and ensuring that unauthorized parties do not access the cargo at any time, and, unless the shipment is "Shipper Load and Count", checking the count and condition of the cargo and ensuring that it is properly packaged and secured for transit). CARRIER shall also: (a) conduct an inspection of all empty containers/trailers prior to loading, (b) document all inspections, (c) establish seal control, issuance, affixing, and verification policies with appropriate checks and balances, (d) track driver movements throughout transportation, (e) establish access controls to all transported cargo, (f) implement effective screening processes for all employees and/or contractors who handle cargo hereunder, and (g) ensure that any vehicle used in the provision of services hereunder can at all times, regardless of weight, commodity or dimension, be operated over any road, highway, bridge or route in compliance with Applicable Law. CARRIER shall not leave a trailer unattended unless the trailer is left in a secured and locked facility with proper kingpin locks affixed. It is CARRIER's sole responsibility to confirm that it may lawfully operate a loaded vehicle of any weight, commodity or dimension over any road, highway, bridge or route. CARRIER shall be solely responsible for any fines, penalties or citations occurring as a result of operating a vehicle over any road, highway, bridge or route in violation of any applicable regulation, law or ordinance.
- 4.2 CARRIER acknowledges that BROKER or certain BROKER Customers may have special requirements, and shall therefore comply with any further Appendices hereto which may set out more specific service or operational requirements, including Appendices that may be added from time to time with the mutual written agreement of the parties. CARRIER represents and

- warrants that it has experience in transporting commodities of the type to be provided by BROKER pursuant to this Agreement.
- 4.3 CARRIER represents and warrants that it will not re-broker, co-broker, subcontract, assign, interline, or transfer the transportation of shipments hereunder to any other persons or entity conducting business under a different operating authority, without prior written consent of BROKER. If CARRIER breaches this provision, BROKER may, at BROKER's option and without prejudicing any other right or remedy that BROKER may have, or CARRIER's liability to BROKER hereunder, do any of the following: pay any or all monies it owes CARRIER directly to the delivering carrier, in lieu of payment to CARRIER; withhold payment to CARRIER until it obtains confirmation that delivering carrier has received full payment for its services; and/or retain any monies it owes CARRIER as liquidated damages.
 - 4.4 Where cargo is shipped and the shipping conveyance is sealed by the consignor, CARRIER shall ensure that the seal on the load remains intact from the time of pickup and loading until the cargo is delivered, and will comply with all other Customer seal requirements, subject to section 8.3 herein.
 - 4.5 CARRIER agrees to be responsible for any and all hazardous materials and environmental claims, clean up and remediation and the costs stemming therefrom that may arise from a material breach of this Agreement, or negligence of the CARRIER or any party performing transportation services hereunder other than the BROKER.
 - 4.6 CARRIER agrees not to assert, and hereby waives, any lien that it might have on any shipment transported hereunder. If, notwithstanding this waiver, CARRIER, its successor, assignee or anyone purporting to act on its behalf should attempt to assert any such lien, CARRIER or such other party shall reimburse BROKER or BROKER's Customer for its costs, including reasonable attorneys' fees, in obtaining release of the lien. Without limiting the foregoing, in the event that CARRIER retains any shipment tendered hereunder and fails to transport such shipment with due dispatch (whether due to an assertion of lien or any other reason), CARRIER acknowledges and agrees that such action would result in irreparable injury to BROKER, and that BROKER would therefore be entitled to obtain injunctive relief and/or an order of specific performance in relation to such breach, in addition to any other remedy available to it in law or equity (including recovering costs and damages) and would not be required to post a bond in such event.
 - 4.7 In the event that CARRIER becomes unable to deliver any shipment, in whole or in part, and/or in accordance with the time requirements imposed, CARRIER shall immediately notify BROKER, which shall have the right, but not the obligation, to provide alternative transportation for such shipment, or any required shipment of replacement goods, all at CARRIER's expense. CARRIER shall cooperate fully in the transfer of the shipment to a substitute carrier. Such transfer shall not relieve the parties of their obligations hereunder, nor release either party from its liability hereunder, including, but not limited to, CARRIER's liability for such shipment as set forth herein.
 - 4.8 In the event that the consignee rejects a shipment that CARRIER has attempted to deliver, CARRIER shall immediately notify BROKER, and BROKER shall provide CARRIER with instructions respecting the disposition of such shipment. Unless specifically instructed by BROKER, CARRIER shall not place such shipment in a warehouse or other storage. CARRIER agrees that if it places such shipment into a warehouse or other storage contrary to, or in the absence of, BROKER's express instructions, CARRIER's liability with respect to such shipment shall continue to be that of a motor carrier and not that of a warehouseman. The foregoing shall not be deemed to waive any of BROKER's or BROKER's Customers' rights or remedies with respect to CARRIER's handling of such shipment. In no event may CARRIER dispose or salvage the shipment without the written consent of BROKER.
 - 4.9 Any driving directions provided by BROKER on any load tender sheet shall be for informational purposes only and shall not be relied upon by CARRIER in performing its services hereunder, provided however that CARRIER may be required to comply with Customer-specific routing restrictions to protect freight from damage, in which case CARRIER shall comply with such Customer-specific routing restrictions. CARRIER acknowledges that pick-up and delivery dates and hours will not require the motor carrier to violate hours of service regulations.
 - 4.10 Commodities to be transported by CARRIER pursuant to this Agreement may consist of, but will not necessarily be limited to, commodities requiring special care and handling, including food or pharmaceutical products intended for human consumption, or unprocessed commodities intended for processing into such food or pharmaceutical products. CARRIER represents and warrants that all transportation and handling of food, pharmaceutical or related products shall be conducted in accordance with Applicable Law and shall be performed under conditions that will protect against physical, chemical and microbial contamination, as well as against deterioration of such products. In addition, CARRIER shall comply with such government guidelines regarding transportation and/or handling of food products as are applicable to its operations. Such guidance documents include, but are not limited to, the U.S. Food and Drug Administration's ("FDA") "Bulk Over-the-Road Food Tanker Transport Safety and Security Guidelines," and "Food Producers, Processors, and Transporters: Food Security Preventive Measures Guidance," and compliance with the USDA's "Guide for Security Practices in Transporting Agricultural and Food Commodities," and its "FSIS Safety and Security Guidelines for the Transportation and Distribution of Meat, Poultry, and Egg Products" guide.
 - 4.11 In the event that shipments tendered hereunder require refrigeration, CARRIER shall be solely responsible for complying with the instructions regarding such refrigerated shipments and for ensuring that the reefer units are fueled at all times. In the event that the CARRIER arrives to pick-up a load which is to be refrigerated, but it has not been provided with appropriate directions (e.g., the appropriate temperature setting), CARRIER shall be responsible for obtaining appropriate instructions prior to departure.

5. CARRIER EQUIPMENT

- 5.1 CARRIER shall be solely responsible for supplying, carrying and maintaining all equipment necessary to carry out its obligations under this Agreement. Such equipment shall be in good, safe and efficient operating condition (which includes providing secure, clean, sanitary, dry, leak-proof, free-from-infestation or contamination, defect-free and odor-free trailers that

have not previously hauled waste products), in compliance with any and all Applicable Law (including those laws that are specific to the types of commodities being transported, such as laws pertaining to hazardous materials, food or food grade products, or cosmetics), shall be suitable and properly configured to safely load, transport, and unload the shipments specified on each load tender sheet (including any special requirements related thereto), and shall be registered, licensed, insured and identified under CARRIER's own name and USDOT number.

- 5.2** CARRIER warrants that none of the equipment provided hereunder has been or will be used for the transportation of any waste of any kind, garbage, hazardous materials or any other commodity that might adulterate or contaminate food, food products or cosmetics. CARRIER acknowledges that it has in place a food security program as required by the FDA. CARRIER further agrees that all equipment shall have a manufactured date less than ten (10) years prior to the date the equipment will be used to transport freight hereunder for a customer. In the event any equipment is found to be deficient by any source, including BROKER, under any applicable law or regulation, CARRIER agrees to immediately cease using such equipment for transportation hereunder and to replace it with compliant equipment.

7. INSURANCE

- 7.1** CARRIER shall procure and maintain in force, at its own expense, throughout the term of this Agreement, all health, workers' compensation, cargo and liability insurance to at least the minimum limits required by Applicable Law and industry standards in locations where CARRIER provides transportation services or operates. CARRIER additionally agrees to maintain the following insurance coverage:
- (a) Commercial General Liability insurance in an amount of \$1,000,000 USD per occurrence (or the Canadian equivalent);
 - (b) Automobile Liability Insurance in amounts not less than \$1,000,000 USD (or the Canadian equivalent) per accident or in accordance with the requirements of 49 C.F.R. Part 387 (whichever requirement is greater), such insurance shall include MCS-90 endorsement and broadened pollution liability coverage endorsement;
 - (c) Broad Form Cargo Liability Insurance in the minimum amount of \$100,000 USD per occurrence (or the Canadian equivalent) to compensate the parties named on the receipt or bill of lading for loss or damage to property transported by CARRIER; provided further, that where CARRIER is providing or using equipment designed for refrigerated, heated, or other temperature controlled services, such insurance shall contain an endorsement insuring against the mechanical breakdown of such refrigerated, heated, or other temperature controlled equipment, and against driver error; such insurance shall include no exclusions likely to result in denial of coverage for shipments handled pursuant to this Agreement including, but not limited to, exclusions for electronics, foodstuffs, perishable commodities, reefer malfunction, lack of reefer fuel, or failure to set or maintain the appropriate temperature;
 - (d) Employer's Liability coverage with limits of not less than \$500,000 USD (or the Canadian equivalent); and
 - (e) Workers' Compensation insurance coverage in accordance with statutory limits.
- 7.2** CARRIER warrants that the cargo liability insurance policy maintained by CARRIER does not exclude coverage for negligence, infidelity, fraud, dishonesty or criminal acts of the CARRIER, its employees, agents, officers or directors ("Employee Dishonesty") and has no limits of liability or any exclusions on the insurance policy or in the CARRIER tariff for: (a) less than the insured amount or full actual value of the goods, whichever is higher, or (b) commodities and terms and conditions shown on the load tender sheet specific to the shipment or series of shipments. In the event that CARRIER's cargo policy cannot be endorsed to exclude coverage for Employee Dishonesty, CARRIER shall obtain and maintain a separate crime insurance policy to ensure similar coverage. The CARRIER will provide to BROKER a copy of their general liability, automobile liability and cargo liability policies upon request.
- 7.3** Where CARRIER is self-insured, CARRIER will provide written proof to BROKER of the approval of the U.S. DOT (or any successor agency) of such self-insurance, both as of the effective date of this Agreement and upon BROKER's request from time to time. All insurance policies required by this Agreement shall be issued by insurance companies with an AM Best rating of A-VIII or greater, and shall, as applicable, be primary and shall waive subrogation and contribution against BROKER and its Customer. 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, and specifying that written notice of cancellation of the policies shall be given to BROKER at least thirty (30) days prior to such cancellation (with a 10 day notice of cancellation for non-payment of premium). In addition, BROKER shall be named as an additional insured on CARRIER's general liability and automobile liability, and as a loss payee on the cargo liability 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.
- 7.4** BROKER shall have the right, prior to tendering any shipments and thereafter while this Agreement is in effect, to make any investigations (including audits of CARRIER's records) that it deems reasonably necessary to determine CARRIER's solvency, and performance of, and ability to perform, the services hereunder in accordance with the standards herein, including making inquiries into CARRIER's credit and financial records and history.
- 7.5** BROKER does not represent that the types or minimum limits of the insurance set forth herein are adequate to protect the CARRIER's interests, and CARRIER agrees that the insurance limit amounts do not limit CARRIER's responsibilities and liabilities under this Agreement.

8. LIABILITY AND INDEMNITY

- 8.1** Notwithstanding that CARRIER may have or hold an authorization or permit to operate as a contract carrier, CARRIER hereby agrees to assume the liability of a common carrier for full actual loss or damage to goods transported hereunder.
- 8.2** Liability for goods transported hereunder shall exist from the time of the receipt of the goods by CARRIER until proper delivery has been made in accordance with this Agreement. Liability shall be for the full value of the lost or damaged goods, being the greater of: (a) full replacement cost of the lost or damaged item(s) (including the manufactured cost of, and reasonable profit on, such item, and all freight charges related thereto), (b) for goods sold to a customer, the invoice price to the customer, or (c) for goods not sold to a customer, the destination market value of the goods. For transportation within the United States, the parties agree that the provisions of 49 U.S.C. §14706 ("Carmack Amendment") and 49 C.F.R. Part 370 (claim regulations) shall be applicable, (even if the shipment is not specifically regulated), including the limitations on defenses contained therein; provided, however, that in no event may CARRIER salvage or dispose of any damaged or refused goods without the prior written consent of BROKER or owner of such goods.
- 8.3** Federal law prohibits sale of food, pharmaceutical, cosmetic or other products when the product may have been rendered injurious to health or tampered with. Thus, CARRIER further agrees to the following provisions with respect to liability and damages to shipments covered by this Agreement:

- (a) With respect to shipments subject to the seal requirements of this Agreement, where the underlying shipment documentation contains a clear seal record at origin, and regardless of whether the shipment bears a “BROKER Load and Count”, “SLC”, or similar designation:
1. If any such shipment arrives at destination: a) with a broken seal and/or; b) with evidence of tampering suggesting the shipment was accessed by unauthorized persons or otherwise subjected to contamination, infestation, or other sources with the potential to render the shipment injurious to health, the typical burden of proof imposed by the Carmack Amendment shall not apply and instead BROKER, in its sole discretion, may determine that the shipment may have been rendered injurious to health and may reject the entire shipment or any portion thereof.
 2. The foregoing subsection shall not apply to those situations where the original seal was broken by law enforcement personnel or at the written instruction of the BROKER if, after the initial seal is broken, CARRIER complies with its obligations hereunder with respect to documentation and resealing as set forth elsewhere herein, as long as there is no additional evidence with respect to the shipment which would allow BROKER to invoke the foregoing subsection.
- (b) Where there is evidence that a shipment was subjected to inappropriate temperatures, BROKER, in its sole discretion, may determine that the shipment may have been rendered injurious to health and may reject the entire shipment or any portion thereof.
- (c) CARRIER agrees to refrain from salvaging any goods subject to this Agreement absent the express written consent of BROKER, which consent may be granted or withheld in the sole discretion of BROKER, and CARRIER hereby waives all claims for damage arising from BROKER’s refusal to grant such permission.
- 8.4** With respect to loss or damage of sealed shipments caused by improper loading, in those instances where the shipment documentation indicates that the shipment was loaded and sealed by BROKER or the consignor prior to arrival of CARRIER or its personnel (e.g., where the shipment documentation bears a “Shipper Load and Count”, “SLC”, or similar designation), and where BROKER or consignor did in fact load and seal the shipment prior to arrival of CARRIER personnel, CARRIER shall not be responsible for loss, damage, or delay caused solely by improper loading if the CARRIER was also free from negligence or other fault for such damage. CARRIER shall bear the burden of proving that the loss was caused solely by improper loading and shall bear the initial burden of proving that it was free from negligence by clear and convincing evidence.
- 8.5** CARRIER shall return all damaged shipments at its expense to the point of origin or to other points as instructed by BROKER for the purpose of inspection and mitigation of damages. Where the cost of transportation to such other points is materially higher than the return of shipments to the point of origin, BROKER and CARRIER may mutually agree on a reasonable charge for such transportation.
- 8.6** Claims based on a concealed loss or damage reported to CARRIER within fifteen (15) days of the date of delivery shall be treated by CARRIER as though an exception notation had been made on the delivery receipt at the time of delivery.
- 8.7** CARRIER acknowledges that, with respect to all matters relating to loss, damage or delay claims, CARRIER is directly liable to the consignor, consignee or owner of the goods. BROKER’s sole obligation in relation to such claims is to attempt to facilitate a settlement between the CARRIER and the consignor, consignee or owner of the goods.
- 8.8** Pursuant to 49 USC 14101, CARRIER expressly waives all rights and remedies under Title 49 USC Subtitle IV Part B to the extent they conflict with this Agreement. Where this Agreement is silent, general provisions of U.S. federal transportation law shall apply. For greater certainty, nothing herein shall waive the applicability of 49 USC 14704 (a) (2) and (e) in relation to CARRIER’s provision of the services hereunder.
- 8.9** The time limit for filing a claim against CARRIER shall be nine (9) months from date of delivery, or in the case of CARRIER’s failure to make delivery, within nine (9) months after a reasonable time for delivery has elapsed. Mailing the claim or electronically transmitting (including by e-mail or fax) the claim in accordance with the notice provisions of this Agreement within the nine (9) month time limit will satisfy the time limit. CARRIER hereby expressly waives any requirement for the BROKER or claimant to give notice in writing to the CARRIER of any loss, damage or delay to any shipment transported pursuant to this Agreement within sixty (60) days after delivery of the shipment, or in the case of failure to make delivery, within nine (9) months after the date of shipment. CARRIER agrees and covenants that it will not raise as a defense to any claim asserted by BROKER or claimant the failure on the part of BROKER or claimant to give prior notice in writing of a claim.
- 8.10** CARRIER shall be liable for, and shall defend, indemnify and hold harmless BROKER, its Customer, its shipper, consignee or owner of property, and all officers, members, directors, employees, stockholders, partners, affiliates and agents thereof (collectively the “Indemnified Parties”) from and against, all claims, demands, costs, damages (including special, indirect or consequential damages), losses, liabilities (including reasonable attorneys’, accountants’, and experts’ fees and disbursements), judgments, fines and other amounts (collectively “Claims”) relating to or arising out of: (a) injury to persons (including injury resulting in death) and damage to property arising out of or in connection with the transportation services performed by CARRIER hereunder, or by any third parties, CARRIER employees or agents performing services directly or indirectly on CARRIER’s behalf hereunder, (b) CARRIER’s performance or non-performance of any of its obligations under this Agreement, including without limitation any acts or omissions related to the handling of cargo shipped hereunder, (c) CARRIER’s breach of this Agreement or any warranty or representation herein, (d) CARRIER’s negligence or misconduct or (e) any claim (including by governmental authorities) that CARRIER or any employee of CARRIER is an employee of BROKER. CARRIER shall not be obligated to indemnify an Indemnified Party to the limited extent that Claims directly result from the gross negligence or willful misconduct of such Indemnified Party.
- 8.11** BROKER shall have the right to offset from freight or other charges by CARRIER the amount of any actual or potential claims, provided such claims are reasonably substantiated or anticipated. Any such offset is fully authorized by CARRIER.

9. CONFIDENTIALITY AND NON-SOLICITATION

- 9.1** Neither party may disclose the terms of this Agreement to a third party without the written consent of the other party except (1) as required by law or regulation; (2) disclosure made to its parent, subsidiary or affiliate company; or (3) to facilitate rating or auditing of transportation charges by an authorized agent and such agent agrees to keep the terms of the Agreement confidential. CARRIER will not accept traffic, either directly or indirectly, from any shipper, consignor, consignee or Customer of BROKER where: (1) the availability of such traffic first became known to CARRIER as a result of BROKER's efforts; or (2) the traffic of the shipper, consignor, consignee or Customer of BROKER was first tendered to CARRIER by BROKER. If CARRIER breaches this Agreement and moves shipments obtained from such parties during the term of this Agreement or for twelve (12) months thereafter without utilizing the services of BROKER, CARRIER shall be obligated to pay BROKER, for a period of fifteen (15) months thereafter, commissions in the amount of thirty-five percent (35%) of the transportation revenue resulting from traffic transported in violation of this provision, and CARRIER shall provide BROKER with all documentation requested by BROKER to verify such transportation revenue.
- 9.2** CARRIER shall not utilize BROKER's or Customer's name or identity in any advertising or promotional communications without BROKER's or Customer's prior written consent.
- 9.3** In addition to the remedies set forth in Section 9.1 and 9.2 above, CARRIER acknowledges that immediate and irreparable damage could be caused to BROKER as the result of a breach by CARRIER, or threatened breach, of the provisions of Section 9.1 and 9.2 above, and accordingly, CARRIER specifically agrees that BROKER may enforce the provisions of Section 9.1 and 9.2 above by an injunction, restraining order, or other equitable relief, and in such event, BROKER shall not be required to post a bond. In the event BROKER is required to engage legal counsel or initiate legal proceedings to enforce the provisions of this paragraph of the Agreement, CARRIER shall be liable for all reasonable attorneys' fees and costs incurred in connection therewith.

10. GENERAL

- 10.1** This Agreement and the attached Appendices constitute the entire agreement between the parties and supersede all previous agreements and understandings relating to the subject matter hereof. Except as expressly provided herein, this Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both parties.
- 10.2** The relationship of the CARRIER to the BROKER shall, at all times, be that of an independent contractor. None of the terms of this Agreement, or any act or omission of either party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, or employer/employee relationship between the Parties. CARRIER shall provide the sole supervision and shall have exclusive control over the operations of its employees, contractors, subcontractors, agents, as well as all vehicles and equipment used to perform its transportation services hereunder. CARRIER represents and agrees that at no time and for no purpose shall it represent to any party that it is anything other than an independent contractor in its relationship to BROKER.
- 10.3** CARRIER shall not assign or transfer this Agreement without the prior written consent of BROKER, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties hereto and their respective lawful successors and permitted assigns.
- 10.4** Time is of the essence of this Agreement. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.
- 10.5** If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal, or unenforceable, any such provision shall be construed, to the extent possible, to be valid, legal and enforceable, and where not possible, shall be severable from this Agreement, in which event this Agreement shall be construed as if such provision had never been contained herein. Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would survive the termination or expiration of this Agreement, shall do so.
- 10.6** Any notices to be given under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail, courier or facsimile addressed to the parties at their respective addresses appearing in this Agreement in Appendix C (and in the case of a notice to BROKER, with a copy to Carrier Compliance Manager and VP Compliance and Commercial Risk or to such other address as one party advises the other party in writing. Any such notices shall be deemed to have been received by the party to whom they were addressed upon actual delivery if by hand, registered mail, or courier, or if by facsimile, upon confirmation by the party to whom they were addressed. Notices may also be sent by electronic mail in situations where this Agreement expressly specifies that electronic mail notices may be given; electronic mail notices shall be deemed to have been received by the party to whom they were addressed upon confirmation by electronic mail delivery receipt obtained through the applicable electronic mail program.
- 10.7** Where CARRIER is a U.S. legal entity, the laws of the State of North Carolina shall govern the validity, construction and performance of this Agreement and all actions or proceedings shall be brought exclusively in the State of North Carolina and CARRIER consents to the jurisdiction of a court located in said state for all purposes, including the taking of depositions in said State; provided, however, actions for recovery of loss and damage claims may be commenced (at the option of BROKER or claimant) in such other jurisdiction and venue as may be authorized under 49 U.S.C. § 14706, and CARRIER hereby consents to the jurisdiction and venue of such court for all purposes, including the taking of depositions and where CARRIER is a Canadian legal entity, the laws in effect in the Province of Ontario shall govern the validity, construction and performance of this Agreement and all actions or proceedings shall be brought exclusively in the Province of Ontario and CARRIER

consents to the jurisdiction of a court in said Province for all purposes, including the taking of depositions in said Province; provided, however, actions for recovery of loss and damage claims may be commenced (at the option of BROKER or claimant) in such other jurisdiction and venue as may be authorized by applicable Canadian law, and CARRIER hereby consents to the jurisdiction and venue of such court for all purposes, including the taking of depositions.

- 10.8 The parties agree and acknowledge that any claim(s) arising from or out of this Agreement, except to the extent otherwise provided by laws specifically referenced herein, shall be filed no later than one (1) year from the date of the accrual of the breach or other circumstances giving rise to such claim. The failure by the other party to submit any such claim in accordance with this provision shall thereupon extinguish any right to such claim and the party asserting same shall waive any benefit arising therefrom for any purpose.
- 10.9 BROKER may monitor and/or record telephone communications between its employees, its customers, and motor carriers, including CARRIER, for the purposes of quality assurance. CARRIER acknowledges that it has been informed of this policy, and consents to the monitoring and/or recording of all of CARRIER's telephone communications with BROKER.
- 10.10 The parties hereto confirm that it is their express wish that this Agreement and all documents hereto be drafted in English only. Les parties aux présentes confirment qu'elles ont exigé que la présente convention de même que tous les documents s'y rattachant soient rédigés en anglais seulement.
- 10.11 This Agreement may be executed in counterparts, or facsimile counterparts, each of which when executed by either of the parties shall be deemed to be an original and such counterparts shall together constitute one and the same Agreement.

Each party is signing this Agreement on the date indicated.

BROKER: _____	CARRIER: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
	Company Name: _____
	Address: _____
	City/State/Zip: _____
	Phone: _____
	Fax: _____
	Federal ID# _____
	US DOT # _____ MC # _____
	Email Address: _____