



## BROKER/SHIPPER AGREEMENT

**THIS BROKERAGE AGREEMENT** (“Agreement”) is made and entered on \_\_\_\_\_, 2021, by and between \_\_\_\_\_ (“SHIPPER”) and **Cornelius Logistics, LLC** (“BROKER”) (individually a “Party” and collectively, the “Parties”).

### I. RECITALS

A. **WHEREAS** BROKER is licensed as a Property Broker by the Federal Motor Carrier Safety Administration (“FMCSA”), or by appropriate State agencies, and as a licensed broker, arranges for freight transportation under MC-1191307.

B. **WHEREAS** SHIPPER seeks to utilize the services of BROKER to facilitate the transportation of goods on behalf of SHIPPER; and

**NOW THEREFORE**, intending to be legally bound, BROKER and SHIPPER agree as follows:

### II. AGREEMENT

#### 1. SCOPE.

a. This Agreement applies to all services performed by BROKER with respect to shipments tendered by SHIPPER. If there is a conflict between this Agreement and any other agreement, contract, bill of lading, or any other document between BROKER, SHIPPER, or a servicing motor carrier (as defined below) then the terms of this Agreement shall prevail.

b. This Agreement shall not be exclusive: Nothing herein shall grant BROKER any exclusive right to perform property brokerage services on behalf of SHIPPER or obligate SHIPPER to tender any minimum amount of cargo to BROKER.

c. This agreement shall apply to transactions where broker party provide the load through Fusion Center powered by Nexterus who contracts with motor carriers to be transported.

d. These terms of this Agreement are intended to apply to all co-brokered transactions between parties.

#### 2. TERM AND TERMINATION.

a. The term of this Agreement shall be for one (1) year and shall automatically be renewed for successive one (1) year periods; provided, however, that either Party may terminate this Agreement with or without cause at any time by giving the other Party thirty (30) days prior written notice.

b. Either Party may additionally terminate this Agreement immediately upon written notice to the other of the following events:

i. Breach of any covenant, obligation, condition, or requirements imposed by this Agreement if such breach continues for a period of ten (10) days after written notice thereof; or

ii. A Party becomes insolvent, unable to pay its debts in a timely manner, seeks protection under bankruptcy or receivership laws, or is forced into bankruptcy or receivership.

- c. SHIPPER may additionally terminate this Agreement immediately upon written notice if:
  - i. Broker loses its operating authority;
  - ii. Fails to procure or maintain the insurance coverages required by this Agreement; or
  - iii. Utilizes the services of Servicing Motor Carriers that do not hold the requisite authority to provide services required by SHIPPER.

3. **BROKER'S SERVICE RESPONSIBILITIES.** BROKER shall be solely responsible for exercising due diligence in selecting motor carriers for the physical shipment of the cargo in accordance with this Agreement. This responsibility shall include, but is not limited to:

(i) verifying that the motor carrier utilized to perform physical operations as contemplated by this Agreement has appropriate operating authority to perform physical operations as contemplated by this Agreement; verifying that the motor carrier utilized to perform physical operations as contemplated by this Agreement has in place (a) workers' compensation insurance on all employees, as required by applicable state law, and (b) automobile and property damage liability insurance with limits of liability of not less than \$1,000,000 per occurrence, and (c) cargo insurance to cover damage to or loss of cargo in the amount of \$250,000 per occurrence.

(ii) verifying that the motor carrier utilized to perform physical operations as contemplated by this Agreement does not have an "Unsatisfactory" or "Conditional" safety rating with the FMCSA;

(iii) executing a written contract with motor carrier utilized to perform physical operations as contemplated by this Agreement, which includes carriers' representations of compliance with all applicable state and federal safety regulations; and

(iv) BROKER agrees to arrange for the transportation of SHIPPER's freight pursuant to the terms of this Agreement. BROKER represents and warrants that it is duly and legally qualified to operate as a Property Broker and to arrange the transportation services contemplated in this Agreement. BROKER agrees to comply with all federal, state and local laws regarding the provision of BROKER's brokerage services.

4. **PAYMENT AND CHARGES.** With respect to any shipment tendered by SHIPPER to BROKER, BROKER shall invoice SHIPPER for its services in accordance with the rates and charges as agreed to in writing by both Parties prior to the movement of the shipment. If rates are negotiated between the Parties and not otherwise confirmed in writing, such rates shall be considered "written," and shall be binding upon BROKER's invoice to SHIPPER and SHIPPER's payment to BROKER. In the event that brokerage services are provided and it is subsequently discovered that there was no applicable or understood rate, the Parties agree that the charges invoiced by BROKER shall be the agreed upon contract rate of the Parties for the services provided, unless such payment is objected to by SHIPPER within thirty (30) days of the invoice date. SHIPPER agrees to pay BROKER within thirty (30) days of receiving invoice, without offset. BROKER will implement and maintain in its written contracts with Servicing Motor Carriers that BROKER has the exclusive right to handle all billing of freight charges to the Shipper for the transportation services provided, and as such, the Servicing Motor Carrier shall agree to refrain from all collection efforts against the SHIPPER, or the receiver of the shipment. Payment of the freight charges to BROKER under this Agreement shall relieve SHIPPER or any other party of any liability to the Servicing Motor Carrier for non-payment of its freight charges; and BROKER hereby covenants and agrees to indemnify, defend, and to hold SHIPPER, or any other party harmless from any such claim of nonpayment by the Servicing Motor Carrier, or any party acting through or under the Servicing Motor Carrier.

5. **NO BACK-SOLICITATION:** In recognition of the fact that each of the parties has invested substantial effort and money in developing its customers and each party may separately procure new accounts during the term of this Agreement, the parties expressly agree that:

(i) Shipper shall neither solicit business from motor carriers or brokerage services directly or indirectly for payment first introduced to it by Cornelius Logistics or through the performance of this Agreement. If, however, Shipper has conducted business with such customers prior to entering into this Agreement then Shipper can continue to solicit those traffic lanes previously served.

(ii) It is further agreed that this non-solicitation provision shall be in force and effect during the term of this Agreement and for a period of one (1) year from the date of the termination of this Agreement for any reason.

(iii) In the event of non-compliance with the specific provisions of this paragraph, Cornelius Logistics shall, upon discovery of breach by Shipper, be liable to Cornelius Logistics for five percent (5%) of the gross transportation revenue.

6. **INDEMNIFICATION.** BROKER shall indemnify, defend and hold SHIPPER harmless from and against any and all liability, claims, loss, costs, fines, penalties, expenses (including attorney's fees), judgments, or demands on account of damage of any kind whatsoever, including but not limited to personal injury, property damage, cargo damage, or any combination thereof, suffered or claimed to have been suffered by any person or persons, to the extent caused by BROKER's negligent services provided in connection with this Agreement or any breach thereof.

7. **INDEPENDENT CONTRACTOR.** BROKER represents and warrants that it is an independent contractor under this Agreement and that its employees are under BROKER's exclusive management and control, and that SHIPPER neither exercises nor retains any control over BROKER, its operations or employees in any manner whatsoever.

8. **CARGO LOSS, DAMAGE, OR SHORTAGE.**

a. In the event of a cargo loss, damage, delay or shortage claim, BROKER agrees to facilitate the filing of cargo claims with the Servicing Motor Carrier. SHIPPER agrees to notify BROKER promptly after becoming aware of any such claim by phone and to subsequently submit to BROKER a written claim, fully supported by all relevant documentation, including but not limited to the signed delivery receipt, listing the nature and cause of the claim for cargo damage.

b. It is understood and agreed that BROKER is not a motor carrier and as such, BROKER shall have no liability for cargo loss, damage, or shortage, except as provided in Paragraph 6 above.

9. **SHIPPING DOCUMENTS.** Unless otherwise agreed in writing, all shipments tendered shall be accepted on a bill of lading. The bill of lading shall act as a receipt only and in no event shall the terms and conditions of the bill of lading be binding on the Parties. Upon request, BROKER shall instruct Servicing Motor Carriers to obtain a delivery receipt from the consignee, showing the products delivered, condition of the shipment, and the date and time of such delivery.

10. **NOTIFICATION OF ACCIDENTS OR DELAYS.** BROKER agrees to notify SHIPPER of any accident or other event of which BROKER is apprised and which prevents the Servicing Motor Carrier from making a timely or safe delivery.

11. **COMMUNICATIONS.** To the extent practicable, communications between BROKER and SHIPPER, including, but not limited to, invoicing, payment, Rate Confirmation Agreements, and proofs of delivery, will be electronic in a format mutually agreeable to the Parties. The Parties hereby waive any objection to the authenticity of such electronic communications as long as such communications comply with the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act, or related legislation as applicable.

12. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT.** This Agreement may not be assigned or transferred in whole or in part. This Agreement shall be binding upon and inure to the benefit of the Parties hereto.

13. **SEVERABILITY.** In the event that the operation of any portion of this Agreement results in a violation of any law, the Parties agree that such portion shall be severable and that the remaining provisions of this agreement shall continue in full force and effect.

14. **GOVERNING LAW AND VENUE.** This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the State of Texas. Any lawsuit shall be brought in a court of competent jurisdiction for Comal County, Texas. Each Party specifically submits to the exclusive personal jurisdiction of such Comal

County, Texas courts for disputes involving this Agreement.

15. **COMPLETE AGREEMENT.** This Agreement constitutes the entire agreement of the Parties with reference to the subject matters herein, and may not be changed, waived, or modified except in writing signed by both Parties.

16. **NOTICES.** Any and all notices required or permitted to be given under this Agreement shall be in writing (which shall include electronic delivery in portable document format (.pdf)) and shall be addressed to the BROKER and SHIPPER as below:

**SHIPPER:** \_\_\_\_\_

**BROKER: CORNELIUS LOGISTICS, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

Address:  
\_\_\_\_\_  
\_\_\_\_\_

Address:  
1409 Settlement Way  
New Braunfels, TX 78132

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax/Email: \_\_\_\_\_

Fax/Email: \_\_\_\_\_

Customer Credit Application

Company name: \_\_\_\_\_

Address: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_ TIN: \_\_\_\_\_

Shipping Contact: \_\_\_\_\_ Payables Contact: \_\_\_\_\_

Special Billing Requirements: \_\_\_\_\_

**Bank Information**

Name of Bank: \_\_\_\_\_

Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Account Number(s): \_\_\_\_\_

DUNS#: \_\_\_\_\_

**Three Carrier References**

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_

I understand the following and will abide by Cornelius Logistics Transportation Service policies:

1. Notify Cornelius Logistics of any changes in ownership, name, address, phone numbers, etc.
2. If granted credit, our Company agrees to pay our freight bills within 15 days of receipt;
3. Our Company's financial condition is satisfactory, and we will meet all financial obligations;
4. I authorize the release of credit information to Cornelius Logistics which will be held in strict confidence;
5. It is agreed that our account will become COD if we fail to pay within the stated terms;
6. If legal collections are required, we will reimburse Cornelius Logistics for its attorney and collection fees; I am an authorized representative of the Company and have the authority to execute this document;
7. I understand that ABD runs periodic credit reports to update customer files and authorize Cornelius Logisticsto run additional credit reports as they deem necessary;
8. I agree that a faxed signature and transmittal will act as a legal document. Signature: \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

**Give Form to the  
requester. Do not  
send to the IRS.**

<b>Print or type.</b> <b>See Specific Instructions on page 3.</b>	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	Cornelius Logistics LLC	
	<b>2</b> Business name/disregarded entity name, if different from above	
<b>Print or type.</b> <b>See Specific Instructions on page 3.</b>	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.	
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	
	Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ <input type="checkbox"/> <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.	
	Other (see instructions) ▶	
<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):		Exempt payee code (if any) _____
		Exemption from FATCA reporting code (if any) _____
		<small>(Applies to accounts maintained outside the U.S.)</small>
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.		<b>Requester's name and address (optional)</b>
1409 Settlement Way		
<b>6</b> City, state, and ZIP code		
w Braunfels, TX 78132		
<b>7</b> List account number(s) here (optional)		

### Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

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**Social security number**

- -

**OR**

Employer identification number									
8	6	-	1	3	6	0	9	7	3

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person □	Date □
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other

amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*