



CARRIER/ BROKER TRANSPORT AGREEMENT

Official Business Name _____ How long in Business _____

Mailing/Billing Address (Street or P.O. Box Number) _____ City _____ Country _____

Province/State _____ Postal/ZIP code _____ Telephone Number _____

Are you CTPAT Certified: Yes No SVI # _____

What type of equipment does your company offer?

Principal Owner: _____ Ext: _____

Controller/AP: _____ Ext: _____

BROKER CARRIER AGREEMENT

Whereas, "BROKER" is a person or company who arranges with an operator to carry the goods of another person (or company) for compensation and by motor vehicle and may be duly registered where required.

Whereas, "CARRIER" is a person (or company) registered (registered means operating under the authority issues by all applicable regulatory authorities) to carry goods for another person. By commercial motor vehicle for compensation 9copies of Operating Authorities are attached hereto as Appendix C)

THE CARRIER REPRESENTS AND WARRENTS THAT:

A: Is an independent operator of commercial vehicles and /or a motor carrier, duly licenses to provide the transportation of goods under contracts with shippers and receivers and/or brokers of materials, wares, merchandise and general commodities in all jurisdictions as engaged and

B. shall transport the goods (property) under its own operating authorities and subject to the terms of this agreement, and

C. makes the representations herein for the purpose of inducing BROKER to enter into this agreement, and is properly licensed and registered with such federal and /or state regulatory agencies as required by applicable federal and/or state and/or provincial laws, and

D. agrees that a shippers insertion of BROKERS name as the carrier on a bill of lading shall be for the shippers convenience only and shall not change the BROKERS or CARRIERS status as defined above, and

E. will not re-broker, assign or interline the shipments hereunder. If CARRIER breaches this provision, BROKER shall have the right of paying the monies it owes CARRIER directly to the delivering carrier, in lieu of payment to CARRIER. Upon BROKERS payment to

delivering carrier, CARRIER shall not be released from any liability to BROKER under this agreement. In addition to the indemnity obligation in Par 1.H, CARRIER will be liable for consequential damages for violation of this paragraph, and

F. is in, and shall maintain compliance during the term of this agreement, with all applicable federal, provincial (or state) and local laws relating to the provision of its services including, but not limited to :transportation of Dangerous Goods(or Hazardous materials), (including the licensing and training of drivers), to the extent that any shipment hereunder constitute Dangerous Goods (or Hazardous Materials) : security regulations: customs regulations, implementation, substances, and hours of service regulations, sanitation, temperature and contamination requirements for transporting food , perishable, and other products, qualification and licensing and training of drivers; implementation and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to performance of its drivers, and

G. CARRIER will notify BROKER immediately if any Operating authority is revoked, suspended or rendered inactive for any reason, and /or if it is sold, or there is a change in control of ownership, and .or any insurance required hereunder is threatened to be or is terminated, cancelled , suspended or revoked for any reason, and

H. CARRIER shall defend, indemnify and hold BROKER and its shipper and/or consignee customer harmless from any claims, actions or damages, arising out of its performance under this agreement, including cargo loss and damage, theft, delay, damage to property, and personal injury or death. Broker shall not be liable to the carrier for any claims, actions or damages due to the negligence of the carrier, or the shipper. The obligation to defend shall include all costs of defense as they accrue, including consequential damage and,

I. CARRIER warrant, it does not have an “Unsatisfactory” safety rating issued by the federal motor carrier safety administration (FMCSA) U.S Department of Transportation or any other provincial regulatory authority and will notify BROKER in writing immediately if its safety rating is changed to “Unsatisfactory” or “Conditional” and

J. authorizes BROKER to invoice CARRIERS freight charges to shipper, consignee, or third parties responsible for payment. CRARIER agrees that it will contact only the broker for payment. CARRIER waives all rights to contact any persons other than the BROKER.

K. Agrees to conduct business hereunder based on credit-worthiness of BROKER and is Granting BROKER credit terms accordingly.

BROKER RESPONSIBILITIES:

A. SHIPMENTS, BILLING & RATES: BROKER agrees to solicit and obtain freight transportation business for CARRIER to the mutual benefit of the CARRIER and BROKER. BROKER shall inform CARRIER of (a) place or origin and destination of all shipments, and (b) if applicable, any special shipping instructions or special equipment requirements, of which BROKER has been timely notified.

B. BROKER agrees to conduct all billing services to shippers, CARRIER shall invoice BROKER for it (CARRIERS) charges as mutually agreed in writing, by fax, or by electronic means, contained in BROKERS load confirmation sheet. A Proof of delivery must accompany all invoices.

C. In addition to terms listed in this agreement, CARRIER must further adhere to all provisions as listed on load confirmation sheet.

D. PAYMENT:

i. The parties agree that BROKER is the sole party responsible for payment of CARRIERS charges. CARRIER hereby waives the requirement under and applicable statute or regulation for BROKER to maintain a trust account or be subject t any trust obligations in respect of moneys owed to CARRIER hereunder. BROKER agrees to pay CARRIER’s invoice within forty-five (45) days of receipt of a “clean” bill of lading or proof of delivery, provided CARRIER is not in default under the terms of this agreement.

ii. BROKER reserves the right to offset/withhold funds from the carrier for damages or loss claimed by the shipper/receiver.

E. BOND: if applicable, BROKER shall maintain a surety bond on file with the federal motor vehicle safety administration (FMCSA) in the form and amount not less than that required by the agencies regulations.

F. If applicable, BROKER will notify CARRIER immediately if its Operating authority is revoked. Suspended, rendered inactive for any reason; and/or if it is sold and there is a change in control, ownership, and/or any insurance required hereunder is threatened to be or is terminated, cancelled, suspended or revoked for any reason.

3. CARRIER RESPONSIBILITIES:

A: Equipment: Subject to its representations and warranties in paragraph 1 above, CARRIER agrees to provide the necessary equipment and qualified personnel for completion of the transportation services required for the BROKER and/or its customers. CARRIER will not supply equipment that has been used to transport hazardous wastes solid or liquid. CARRIER agrees that al shipment will be transported

and delivered with reasonable dispatch, or as otherwise agreed in writing. Failure to deliver as agreed may result in CARRIER being responsible for collateral cost/loss/penalty as a result of the delay. Acts of God or force Majeure are of exception.

B. BILLS OF LADING: CARRIER shall issue a Uniform Bill of lading for the property it receives for transportation under this agreement. Unless otherwise agreed in writing, CARRIER shall become fully responsible/liable for the freight when it takes/received possession thereof, and the trailer is loaded, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to the CARRIER, and which responsibility/liability shall continue until delivery of the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of this bill of lading (including but not limited to payment terms) inconsistent with the terms of this agreement shall be controlled by the terms of this agreement. Failure to issue bill of lading, or sign a bill of lading acknowledging receipt of the cargo, by CARRIER, shall not affect the liability of the CARRIER.

C. LOSS & DAMAGE CLAIM:

i. CARRIER shall comply with 49 C.F.R s370.1 et seq and any amendments and/or any other applicable regulations adopted by the Federal Motor carrier safety administration, US Department of transportation or any other applicable federal , state or provincial regulatory agency, for processing all loss and damage claims and salvage. CARRIER shall be liable for actual full cash value of the cargo without limitation to a maximum of \$250,000 or as declared on the bill of lading. In the absence of a value on the bill of lading the CARRIER would pay 2.00 per pound per the bill of lading act. The CARRIER is to use and provide as proof of delivery the Bill of lading provided by the SHIPPER unless none has been provided in which case they may create one for such purposes.

ii CARRIER liability for any cargo damage, loss or theft from any cause shall be determined under the Carmack Amendment 49 USC 14706 as governing shipments according to its terms and in respect of shipments originating in Canada under the uniform bill of lading in effect in the province of Canada where the carrier issues a bill of lading. It is agreed that in respect of shipments from a Canadian origin that the BROKER on behalf of the SHIPPER is deemed to have declared the full value of the shipment for the carriage on the bill of lading, and in this regard the CARRIER shall have full liability for cargo damage, loss or theft.

iii. CARRIER agrees to notify BROKER immediately of any accident or delay which prevents CARRIER from making a timely or safe delivery.

iv. Special damages: CARRIER indemnification liability (Par 1.H) for freight losses and damage claims under this sub par C (ii) shall include legal fees which shall constitute special damages, the risk of which is expressly assumed by CARRIER, and which shall not be limited to any liability of CARRIER under sub par (ii) above.

v. Except as provided in Par 1.E above, neither party shall be liable to the other for consequential damages without prior written notification of the risk of loss and its approximate financial amount, and agreement to assume such responsibility in writing.

vi. Notwithstanding the terms of 49 CFR 370.9 CARRIER shall pay, decline or make settlement offer in writing on all cargo loss or damage claims within 60 days of receipt of the claim. Failure of CARRIER to pay, decline or offer a settlement within this 60 day period shall be deemed admission by the CARRIER of full liability for the amount claimed and a material breach of this agreement. BROKER will be able to withhold funds due to CARRIER in order to "offset" the claim.

D. INSURANCE : CARRIER shall furnish BROKER with Certificates of insurance or insurance policies providing thirty (30) days advance written notice of cancellation or termination and unless otherwise agreed subject to the following minimum limits: Public liability \$1,000,000; motor vehicle (including hired and non-owned vehicles) , property damage and personal injury liability \$1,000,000 or (\$2,000,000 if transporting hazardous materials and /or dangerous goods including environmental damage /loss \$250,000; workers compensation with limits required by law. Coverage must also included "Reefer Breakdown" insurance coverage if shipment is transported by a refrigerated trailer/box/container. Except for the higher coverage limits which may be specified above, the Administration and any other applicable federal, state or provincial regulatory agency. Nothing in this agreement shall be construed to avoid CARRIERS liability due to any exclusion or deductible in any insurance policy.

E. ASSIGNMENT OF RIGHTS: CARRIER automatically assigns to BROKER all its rights it collect freight charges from shipper or any responsible third party on receipt of payment from the BROKER.

4. MISCELLANEOUS

A INDEPENDENT CONTRACTOR. It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor and that no employer/employee relationship exists, or is intended. BROKER has no control of any kind over CARRIER, including but not limited to routing of freight, and nothing contained herein shall be construed to be inconsistent with this provision.

B. WAIVER OF PROVISIONS: BROKER assumes exclusive and sole control and direction of enforcement of a breach of any provision or term of this agreement. Failure to enforce a breach or waiver of any provision or term of this agreement shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of the BROKER to thereafter enforce such a term or provision.

C. DISPUTES: In the event of a dispute arising out of this agreement, including but not limited to Federal state, or provincial statutory claims, the party's sole recourse (except as provided below) shall be arbitration. Proceedings shall be conducted under the rules of the ADR institute of Ontario (ADR) upon mutual agreement of Parties, or if no agreement, then at BROKERS sole discretion. Arbitration proceedings shall be started within eighteen (18) months from the date of delivery or scheduled delivery of the freight, whichever is later. Upon agreement of the parties, arbitration proceedings maybe conducted outside of the administrative control of the ADR. The decision of the arbitrator may be entered as judgment in any court of competent jurisdiction. The prevailing party shall be entitled to recovery costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken to enforce the award of arbitrators. Arbitration proceedings shall be conducted at the office of the ADR nearest the offices of the BROKER or such other place as mutually agreed upon in writing or directed by the acting arbitration association provided, however either party may apply to a court of competent jurisdiction for injunctive relief. Venue and controlling law for any such action shall be in Ontario. The arbitration provisions of this paragraph shall not apply to enforcement of the award of arbitration.

D. NOTICES:

- i. All notices provided or required by this agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage pre paid; or by confirmed (electronically acknowledged on paper) fax or email.
- ii. THE PARTIES shall promptly notify each other of any claim that is asserted against either of them by anyone arising out of the party's performance of this agreement.
- iii. Notices sent as required hereunder, to the addresses shown in this agreement shall be deemed sent to the correct address, unless the parties are notified in writing of any changes in address.

E. SERVERENCE SURVIVAL: In the event any of the terms of this agreement are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, right and obligations of the parties hereunder shall survive termination of this agreement for any reason.

F. ENTIRE AGREEMENT : Except for the "Terms contained within the Bill of lading", the "Load confirmation sheet" and its amendments, and unless otherwise agreed in writing, this agreement contains the entire understanding of the Parties and supersedes all verbal or written prior agreements arrangements and understandings of the Parties relating to the subject matter stated herein. The Parties further intend that this agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform the agreement in any judicial or arbitration proceedings involving this agreement.

IN WITNESS WHEREOF, we have signed this agreement (Date) _____.

(BROKER)

(CARRIER)

Authorized signature

Authorized signature

Printed Name

Printed Name

Title

Title

The signatory above has the authority to bind the company.

The signatory above has the authority to bind the company.

79 William Street P.O. Box 225 Plattsville, Ontario N0J 1S0
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