

CARRIER - MOTOR TRANSPORTATION BROKER AGREEMENT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between Z Transport & Logistics LLC of Scottsdale, Arizona ("Broker") and \_\_\_\_\_ of \_\_\_\_\_ ("Carrier").

RECITALS: Broker is a motor transportation broker and engaged in the business of selling and offering for sale, or negotiating or arranging transportation in interstate or foreign commerce, pursuant to a License issued to it by the Interstate Commerce Commission MC489608. Carrier is a motor contract carrier operating pursuant to a Permit issued to it by the ICC in docket No. MC-\_\_\_\_\_. Broker desires to engage Carrier, and Carrier shall provide transportation services pursuant to the terms and conditions set forth herein.

IT IS AGREED:

1. Obligation of Broker

1.1 Broker agrees to solicit from shippers and arrange freight transportation of traffic to be tendered to Carrier's authority. Broker agrees to tender to Carrier a continuing series of shipments of freight but in no event less than a minimum of 1 shipment(s) per year during the continuation of this agreement. Other than as set forth herein, no warranty, representation or guarantee is made by Broker as to the amount of traffic to be tendered or arranged for Carrier, or as to the number of shippers that will be solicited by Broker.

1.2 Nothing herein shall preclude Broker from arranging for transportation of freight with any other carrier.

2. Obligations of Carrier

2.1 Carrier agrees to transport such freight tendered to it by Broker, subject to the availability of Carriers equipment.

2.2 Carrier shall have the right on good cause to decline to provide a transportation service on any shipment arranged by Broker provided that Carrier gives to Broker twenty-four (24) hours written or telephone notice prior to the time the shipment is to commence; provided, however, that if telephone notice is given the Carrier shall confirm in writing to Broker its refusal within forty-eight (48) hours after telephone notice is given. All notices to be given hereunder shall be made to Broker at its place of business as set forth at the end of this agreement.

2.3 Carrier shall be responsible to the shipper, consignee or consignor for the actual loss or damage to the freight being transported by the Carrier, including damage due to delivery beyond normal transit times. The Carrier's liability shall be the same as a common carrier's liability under 49U.S.C. 14706. Carrier agrees to maintain in effect all-risk cargo insurance in an amount of no less than \$100,000 per shipment, and public liability insurance in amounts as required pursuant to ICC and Department of Transportation (DOT) regulations. The cargo insurance shall be in the form required by 49C.F.R. 1043(b), and shall not have any exclusion or restrictions that would not be accepted by the ICC or the DOT for a filing under the statutory requirements of the above cited section, but shall, in all respects, be identical to the cargo insurance filed in accordance with the aforesaid 49C.F.R. 1043(b). Broker claims against the Carrier for loss, damage or delay of shipments shall be governed by the terms and conditions set forth in the uniform bill of lading used by the parties for individual shipments transported under this agreement. The procedures for handling loss and damage claims shall be as set forth in 49C.F.R. 1005. Carrier shall maintain records of bills of lading, with proof of delivery, for a period of three years from the date of each shipment.

2.4 Carrier shall furnish Broker with certificates of insurance certifying that the cargo and liability insurance set forth in Paragraph 2.3 is in effect and that broker is named as an additional insured, and containing a provision whereby the insurance company agrees to give broker a minimum of thirty (30) days advance written notice of the cancellation or reduction of such insurance. Any such cancellation or reduction shall not affect the obligation of Carrier to maintain said insurance.

2.5 Carrier agrees to provide scheduled service, night and weekend pickup and deliveries, through transportation of shipments without transfer of lading, and trailers meeting specific requirements of shippers as may be agreed by the parties. Carrier agrees to provide timely service with reasonable dispatch meeting DOT hours of service regulations.

3. Compensation

Broker and Carrier agree that the transportation of the Commodities tendered for such transportation shall be at rates between the Parties prior to the Commodities being transported by Carrier. The Parties further understand and agree that due to the nature of the transportation business, rates are modified frequently, and the rate to be used on any particular carry may be agreed to by fax or mail prior to that specific transportation movement. Carrier shall have agreed to the new rate if not objected to by it prior to the loading of the commodities on its vehicles. Payment shall be made within 30 days of receipt of proof of delivery, delivery receipt, or receipted bill of lading, executed by consignee or receiver of freight.

4. All Shipments under Contract

Whether or not Carrier is currently authorized to operate, does operate, or may operate in the future as a common carrier, each and every shipment tendered to Carrier by Broker on or after the date of this agreement shall be deemed to be a tender to Carrier as a motor contract carrier and shall be subject only to the term of this agreement and the provisions of law applicable to motor contract carriage hereunder.

5. Receipts and Bills of Lading

Carrier shall issue and sign a receipt for each shipment in the form required by Broker. If broker or the shipper elects to use a bill of lading or other form of freight receipt or contract for each shipment, any terms, conditions or provisions of such bill of

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lading or other form shall be subject and subordinate to the term of this agreement and, in the event of a conflict this agreement shall govern. Carrier waives the provisions for recourse against consignee, consignor or any other party, other than Broker, as provided in Section 7 set forth on any bill of lading. Upon delivery of each shipment, Carrier shall obtain a receipt from the consignee, in a form required by Broker, showing the goods delivered, correct count, condition of such goods and date and time of delivery. Carrier's driver's signature on receipt shall establish its verification of the shippers' count and condition statement.

**6. Soft Remedy for Payment of Compensation**

Carrier agrees and acknowledges that its sole remedy for payment of compensation under this agreement shall be the Broker and not the shipper, consignor or consignee. Carrier waives any remedy it might have by law or regulation to demand payment of compensation or institute any legal action against the consignor, the consignee, shipper or any other person other than Broker, including without limitation any recourse it may have under the provisions of Section 7 of the Bill of lading.

**7. Term**

The term of this agreement shall be for one (1) year commencing on the date hereof; provided that either party may terminate this agreement upon thirty (30) days written notice to the other.

**8. Property Rights and Confidentiality of Information**

**8.1** Carrier acknowledges the confidentiality of information contained in the Broker's documentation and the customers (whether shippers, consignees or consignors) whose freight is tendered to the Carrier by Broker. In consideration of the Broker engaging the Carrier for the transportation of freight, Carrier agrees that during the period of this agreement or for a period of one (1) year from termination of this agreement for whatever reason, Carrier shall not directly or indirectly contact any customer of Broker for the purpose of providing transportation of freight to or for such customers without the prior written consent of Broker.

**8.2** In the event that carrier does provide services to Broker's customers other than pursuant to the terms of this agreement, Broker shall be entitled to a commission of Ten Percent (10%) of the gross revenue received by Carrier for such transportation services.

**9. Indemnification**

**9.1** Carrier agrees to indemnify and hold Broker harmless against and from any and all loss, liability, damages, claims, demands and costs, Attorney fees, court and expenses sustained by Broker on account of injury to or death of persons, loss of or damage to property, caused by or resulting from, the acts or omissions of the Carrier or any of the Carriers agents, servants, owner-operators, or employees in performing any of the transportation services under this agreement.

**9.2** If for any reason damage occurs to cargo or freight tendered to Carrier, Carrier shall be responsible and indemnify Broker for the entire loss.

**10. Independent Contractor**

The parties intend that the relationship between them created by this agreement is that each of them is to be considered as independent contractors and not that of employer and employee. No agent, employee, servant, or owner-operator of Carrier shall be or shall be deemed to be an employee, agent or servant of Broker. Carrier shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and/or owner-operators during the performance of this agreement.

**11. Miscellaneous Provisions**

**11.1** In event of any claim or controversy between the parties hereto the prevailing party shall be entitled to reasonable attorney's fees and costs.

**11.2** This instrument contains the entire agreement of the parties relating to the rights granted and obligations assumed in this agreement. Any oral representations or modifications concerning this agreement shall be in no force or effect unless contained in a subsequent written modification, agreement or freight bill.

**11.3** This agreement shall be construed pursuant to the laws of the State of Arizona, and for the purpose of instituting any litigation or bringing any lawsuit to enforce the provisions of this agreement the parties expressly agree that such lawsuit or litigation shall be commenced in any court of competent jurisdiction within the State of Arizona.

**11.4** Any notice to be given by either party to the other pursuant to the terms and conditions of this agreement shall be made by either certified or registered mail, postage prepaid, or by personal delivery, to the address of the other party as set forth at the end of this agreement.

THE PARTIES HERETO SET THEIR HANDS THE DAY AND YEAR FIRST ABOVE WRITTEN.

Z TRANSPORT & LOGISTICS LLC

By: Chris J Zwierzynski  
Chris J Zwierzynski, Vice President

By: \_\_\_\_\_  
\_\_\_\_\_  
(printed name and title)

3370 N Hayden Rd #123-546  
Scottsdale, Arizona 85251

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

"BROKER"

"CARRIER"

Initial \_\_\_\_\_