

TRANSPORTATION BROKERAGE CONTRACT

THIS AGREEMENT is made and entered into on _____, 20____, by and between Buchanan Logistics Inc. ("BROKER") and _____ ("CARRIER").

I. Recitals

A. BROKER is a licensed transportation broker that controls the transportation of freight under its contractual arrangements with various consignors and consignees (the "Customer");

B. CARRIER is authorized to operate in inter-provincial, interstate and/or intrastate commerce and is qualified, competent and available to provide for the transportation services required by BROKER.

II. Agreement

1. **TERM.** The Term of this Agreement shall be for one (1) year and shall automatically renew for successive one (1) year periods; provided, however, that this Agreement may be terminated at any time by giving thirty (30) days prior written notice.

- (a) BROKER may additionally terminate this Agreement immediately upon written notice in any of the following events:
 - i. CARRIER loses its operating authority or otherwise becomes disqualified to perform its obligations under this Agreement;
 - ii. 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;
 - iii. CARRIER becomes insolvent or becomes unable to pay its debts in a timely manner; ;
 - iv. CARRIER fails to procure and maintain any of the insurance coverages required by this Agreement; or
 - v. CARRIER utilizes the services of any brokers or subcontracts transportation of freight tendered by BROKER hereunder to any third party motor carrier or other transportation provider or utilizes a third party logistics provider to perform its obligations under this Agreement without prior written consent of BROKER.

2. **CARRIER'S OPERATING AUTHORITY AND COMPLIANCE WITH LAW.**

- (a) CARRIER represents and warrants that it is duly and legally qualified in accordance with all federal, state, provincial, territorial, and local laws, statutes, regulations, rules, and ordinances (collectively, "Applicable Law") to provide, as a contract carrier, the transportation services contemplated herein. CARRIER acknowledges that the Hazardous Materials Regulations of the DOT require that certain types of emergency response information must be immediately available at all times during transportation of hazardous materials and CARRIER agrees to make and keep available a current copy of the DOT Emergency Response Guidebook, or its equivalent, at all times during transportation of any hazardous materials and to maintain said book in the manner and locations prescribed by the DOT Regulations. Additional hazardous materials-related requirements are set forth in Appendix A. CARRIER further represents and warrants 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 Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation ("DOT"). CARRIER

further agrees to comply with all Applicable Law in the performance of its services under this Agreement. In the event that CARRIER receives an unsatisfactory safety rating, is notified that it may receive an unsatisfactory safety, fails to maintain insurance required hereunder, is notified that such insurance may become ineffective or is otherwise prohibited by Applicable Law from performing services hereunder, CARRIER shall immediately notify BROKER of such fact and shall not carry any loads or goods tendered to CARRIER by BROKER until such prohibition on operations is removed.

- (b) CARRIER further represents and warrants that it shall ensure all equipment used to provide services in or through the State of California under this Agreement is compliant with California law, including, but not necessarily limited to: All regulations and requirements promulgated under California Air Resource Board's (CARB) Transport Refrigeration Unit (TRU) Airborne Toxic Control Measure (ATCM) regulation, Truck and Bus regulation and Greenhouse Gas regulation. CARRIER shall be liable for and agrees to indemnify BROKER and any BROKER customer for any penalties, or any other liabilities, imposed upon BROKER and any BROKER customer as a result of CARRIER's use of equipment found to be noncompliant with any laws, statutes, regulations or requirements, including but not limited to those set forth above. Upon BROKER's request, CARRIER shall provide proof of CARRIER's compliance with any such laws, statutes, regulations or requirements.

3. **PERFORMANCE OF SERVICES.** CARRIER's services under this Agreement are specifically designed to meet the distinct needs of BROKER under the specified rates and conditions set forth herein. CARRIER shall transport all shipments provided under this Agreement without delay, and all occurrences which would be probable or certain to cause delay shall be immediately communicated to BROKER by CARRIER. CARRIER shall be solely responsible for all aspects of each shipment tendered by BROKER, including but not limited to planning all routes, obtaining any necessary permits, arranging for pick-up and delivery appointments, dispatching drivers, verifying that all drivers have available hours under the safety regulations of the U.S. Department of Transportation, and all other terms and conditions set forth in the Rate Confirmation provided by BROKER. This Agreement does not grant CARRIER an exclusive right to perform the transportation related services for BROKER or its Customer. CARRIER agrees to comply fully with BROKER's Communication Protocol, a copy of which is incorporated herein by reference, for each shipment handled under this Agreement.

4. **RECEIPTS AND BILLS OF LADING.** Each shipment hereunder shall be evidenced by a Uniform (Standard) Bill of Lading naming CARRIER as the transporting carrier. Upon delivery of each shipment made hereunder, CARRIER shall obtain a receipt showing the kind and quantity of product delivered to the consignee of such shipment at the destination specified by BROKER or the Customer. CARRIER shall cause such receipt to be signed by the shipper, driver and consignee. Any terms, conditions and provisions of the bill of lading, manifest or other form of receipt or contract shall be subject and subordinate to the terms, conditions and provisions of this Agreement. CARRIER shall notify BROKER immediately of any exception made on the bill of lading or delivery receipt.

5. **CARRIER'S OPERATIONS.**

- (a) CARRIER shall, at its sole cost and expense:
 - i. furnish all equipment necessary or required for the performance of its obligations hereunder (the "Equipment");
 - ii. pay all expenses related, in any way, with the use and operation of the Equipment; and
 - iii. maintain the Equipment in good repair, mechanical condition and appearance.
- (b) CARRIER shall utilize only competent, able and legally licensed personnel in the performance of services hereunder. CARRIER shall have full control of such personnel. CARRIER shall be solely responsible for ensuring, and will ensure, at CARRIER's cost and expense, that such personnel are

fully qualified to perform services hereunder, and that such personnel have access to all locations into which access is necessary to perform services under this Agreement.

- (c) CARRIER shall perform the services hereunder as an independent contractor, and assumes complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the transportation performed hereunder.
- (d) CARRIER shall be solely responsible for compliance with all provisions of Applicable Law regarding overdimension and overweight loads. CARRIER shall be solely responsible for its day to day operations including, but not limited to, setting appropriate routes to ensure that transportation of shipments is accomplished in accordance with all Applicable Laws and to otherwise ensure shipments are not damaged in transit.
- (e) CARRIER shall maintain appropriate security infrastructure to ensure the physical security of shipments and equipment handled under the terms of this Agreement.

6. **INDEMNITY.** To the maximum extent allowed by law, CARRIER shall defend, indemnify, and hold BROKER harmless from and against all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the performance or breach of this Agreement by CARRIER, its employees or independent contractors working for CARRIER (collectively, the "Claims"), including, but not limited to, Claims for or related to personal injury (including death), property damage and CARRIER's possession, use, maintenance, custody or operation of the Equipment; provided, however, that CARRIER's indemnification and hold harmless obligations under this paragraph will not apply if any such claim is found to be the direct cause of BROKER's sole negligence. CARRIER's indemnification obligations shall survive the termination of this Agreement.

7. **INSURANCE.** CARRIER shall procure and maintain, at its sole cost and expense, the following insurance coverages:

- (a) Commercial Automobile Liability insurance with a combined single limit of not less than US \$1,000,000 per occurrence.
- (b) Commercial General Liability insurance, in a limit of not less than US \$1,000,000 per occurrence.
- (c) Worker's Compensation insurance in the amounts required by statute, and Employer's Liability insurance with limits not less than US \$500,000 per occurrence
- (d) All Risk Broad Form Motor Truck Cargo Legal Liability insurance in an amount not less than \$100,000.00 (U.S. Dollars) per shipment, a deductible no greater than US\$10,000 per shipment and at least the same coverage limit and deductible per shipment while in storage or at a storage facility enroute to the consignee. Such insurance policy shall name CARRIER and BROKER as insureds and provide coverage to BROKER, the Customer or the owner and/or consignee for any loss, damage or delay related to any property coming into the possession of CARRIER under this Agreement. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims. No cargo liability limitations shall apply with respect to any shipment handled by CARRIER under this Agreement, and CARRIER shall be responsible for the full actual cost of any damage or loss claim regardless of the amount of cargo insurance required herein.
- (e) Statutory Workers' Compensation Insurance and Employee Liability coverage in such amounts and in such form as required by applicable state law.
- (f) 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 or modification of the policies shall be given to BROKER at least thirty (30) days prior to such cancellation or modification. Upon request, CARRIER shall provide BROKER with copies of the applicable insurance policies.

(g) All insurance required by this Agreement must be written by an insurance company having a Best's rating "B+" VII or better and must be authorized to do business under the laws of that state(s) or province(s) in which Carrier provides the transportation and related services as specified in load confirmation communications received from BROKER.

8. **FREIGHT LOSS, DAMAGE OR DELAY.** CARRIER shall have the sole and exclusive care, custody and control of the Customer's property from the time it is delivered to CARRIER for transportation until delivery to the consignee accompanied by the appropriate receipts as specified in Paragraph 4. CARRIER assumes the liability of a common carrier (i.e. Carmack Amendment liability under 49 U.S.C. § 14706) for loss, delay, damage to or destruction of any and all of Customer's goods or property while under CARRIER's care, custody or control. CARRIER shall pay to BROKER, or allow BROKER to deduct from the amount BROKER owes CARRIER, Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged or destroyed. CARRIER shall be liable to BROKER for all economic loss, including consequential damages, that are incurred by BROKER or the Customer for any freight loss, damage or delay claim. Payments by CARRIER to BROKER or its customer, pursuant to the provisions of this section, shall be made within thirty (30) days following receipt by CARRIER of BROKER's or Customer's invoice and supporting documentation for the claim. CARRIER agrees that no released rates or liability limitations shall apply to any shipment handled by CARRIER under this Agreement. CARRIER waives any Applicable Law regarding processing of claims and handling of salvage, including, but not limited to, the provisions of 49 C.F.R. Part 370. CARRIER shall fully assist BROKER and/or the Customer in investigating any claim for cargo loss, damage, delay, or destruction.

9. **WAIVER OF CARRIER'S LIEN.** CARRIER shall not withhold any goods of the Customer on account of any dispute as to rates or any alleged failure of BROKER to pay charges incurred under this Agreement. CARRIER is relying upon the general credit of BROKER and hereby waives and releases all liens which CARRIER might otherwise have to any goods of BROKER or its Customer in the possession or control of CARRIER.

10. **PAYMENTS.** CARRIER will charge and BROKER will pay for transportation services performed under this Agreement the rates and charges as shown on separate Rate Confirmation Sheets to be signed and agreed to by CARRIER and BROKER before each shipment made under this Agreement. CARRIER represents and warrants that there are no other applicable rates or charges except those established in this Agreement or in any Rate Confirmation Sheet signed by BROKER. Payment by BROKER will be made within thirty (30) days of receipt by BROKER of CARRIER's invoice, bill of lading containing the arrival and pick-up times with the signatures of the shipper, driver and consignee, signed Rate Confirmation, clear delivery receipt, and any other receipt that may be required by BROKER's customer to ascertain that service has been provided at the agreed upon charge. CARRIER further agrees to upload, via <https://bhri.loadtracking.com/im>, proof of delivery within 72 hours after delivery, and BROKER may deduct \$25 from CARRIER's invoice for each shipment CARRIER fails to do so. In addition, BROKER may deduct an additional \$5 per day after 72 hours until proof of delivery is received by BROKER. In the event service is provided and it is subsequently discovered that there was no applicable rate in the existing Schedule of Rates or supplements, the parties agree that the rate paid by BROKER and collected by CARRIER shall be the agreed upon contract rate. CARRIER agrees that BROKER has the exclusive right to handle all billing of freight charges to the Customer for the transportation services provided herein, and, as such, CARRIER agrees to refrain from all collection efforts against the shipper, receiver, consignor, consignee or the Customer. CARRIER further agrees that BROKER has the discretionary right to offset any payments owed to CARRIER hereunder for liability incurred by CARRIER pursuant to Section 8 of this Agreement. Any failure of CARRIER to invoice freight charges within 180 days of the date of delivery, shall cause the freight charges to be waived for each such shipment. Assuming CARRIER has complied with the foregoing invoicing obligations, CARRIER shall bring suit related to unpaid freight charges or undercharges within 18 months of the date of delivery or its right to sue or otherwise seek payment shall be waived.

11. **CONFIDENTIALITY AND NON-SOLICITATION.** 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 is 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 solicit traffic 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 directly or indirectly solicits traffic from customers of BROKER and obtains traffic from such customer during the term of this Agreement or for twelve (12) months thereafter, CARRIER shall be obligated to pay BROKER, for a period of fifteen (15) months thereafter, commission in the amount of thirty-five percent (35%) of the transportation revenue resulting from traffic transported for the Customer, and CARRIER shall provide BROKER with all documentation requested by BROKER to verify such transportation revenue. CARRIER shall not utilize BROKER's or the Customer's name or identity in any advertising or promotional communications without written confirmation of BROKER consent.

12. **CARRIER MOVING PERISHABLES.** CARRIER warrants that the CARRIER will inspect or hire a service representative to inspect a vehicle's refrigeration or heating unit at least once each month. Carrier warrants that they shall maintain a record of each inspection of refrigeration or heating unit and retain the records of the inspection for a least one year. Copies of these records must be provided upon request to the carrier's insurance company and Broker. Carrier warrants that they will maintain adequate fuel levels for the refrigeration or heating unit and assume full liability for claims and expenses incurred by the Broker or the shipper for failure to do so. The carrier must provide their cargo insurance carrier with all records that relate to a loss and permit copies and abstracts to be made from them upon request. The following rules shall apply: (a) Destination market value for lost or damaged cargo, no special or consequential damages unless by special agreement; (b) Claims will be filed with Carrier by Shipper; (c) claims notification procedures will be followed in accordance with procedure described in 49 C.F.R. 370.1-11.

13. **USE OF TRAILER(S) BY CARRIER.** In the event that CARRIER utilizes a trailer, container, chassis or other equipment owned by or leased to BROKER, its affiliates or their Customer, or otherwise provided to CARRIER by BROKER or its Customer ("Trailer(s)") for the performance of the Services contemplated hereunder, CARRIER shall be liable for any damage to Trailers, destruction of Trailers, theft from Trailers, theft of any contents of Trailers, and for any claims for bodily injury (including death) or property damage caused by any Trailer(s) regardless of whether such damage, injury, destruction, or theft is caused or occurs while the Trailer is attached or unattached to any power unit operated by CARRIER, except to the extent such damage, destruction, or theft is caused by the negligence, recklessness, or willful misconduct of BROKER or the Customer. The initial burden of proving such damage, injury, destruction, or theft was the result of the negligence, recklessness, or willful misconduct of BROKER or the Customer in any proceeding brought pursuant to this Agreement shall rest on CARRIER. In the event that applicable state law does not allow waiver of liability to the extent contained in this provision, the Parties expressly agree that BROKER's and Customer's liability will be waived to the fullest extent allowed by applicable state law. In no event will any such Trailer be used for any purpose other than performing Services hereunder, and in no event will CARRIER allow any third party or any power unit not operating under CARRIER's for-hire motor carrier authority to operate any such Trailer, unless expressly authorized to do so in writing which written notice must be specific to the movement at issue. CARRIER acknowledges and agrees that neither BROKER nor the Customer make any warranties, whether express or implied, regarding the Trailer including, but not limited to, any warranty of merchantability or fitness for particular use.

14. **SUB-CONTRACT PROHIBITION.** CARRIER specifically agrees that all freight tendered to it by BROKER shall be transported on equipment operated only under the authority of CARRIER, and that CARRIER shall not in any manner sub-contract, broker, or in any other form arrange for the freight to be transported by a third party without the prior written consent of BROKER. In the event that CARRIER breaches this provision, CARRIER shall remain directly liable to BROKER as if CARRIER transported such freight under its own authority in accordance with this provision, and shall further hold harmless and indemnify BROKER from any and all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the use of any

subcontractor in violation of this provision regardless of whether arising from the conduct or omissions of CARRIER, the subcontractor, or any other third party. If CARRIER in any manner sub-contracts, brokers, or otherwise arranges for freight to be transported by a third party, in addition to any other rights and remedies available to BROKER, BROKER may, in its sole discretion, pay the underlying carrier directly, which payment will relieve BROKER of any and all payment obligations to CARRIER with respect to such load.

15. **BROKER'S RECORDS**. To the extent allowable under Applicable Law, CARRIER hereby waives its right to obtain copies of BROKER's records as provided for under 49 C.F.R. Part 371. Notwithstanding the foregoing, to the extent that CARRIER obtains records set forth in 49 C.F.R. § 371.3 by any means whatsoever, CARRIER agrees to refrain from utilizing such records in negotiating for the provision of services with any third party, including existing customers of BROKER. CARRIER further agrees and understands that all such records comprise BROKER's confidential information and trade-secrets. Nothing in this section is intended to relieve CARRIER of any other obligations imposed upon it by this Agreement, or to limit any rights of BROKER to enforce such obligations.

16. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT**. This Agreement may not be assigned or transferred in whole or in part, and supersedes all other agreements and all tariffs, rates, classifications and schedules published, filed or otherwise maintained by CARRIER. This Agreement shall be binding upon and enure to the benefit of the parties hereto.

17. **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.

18. **WAIVER**. CARRIER and Shipper expressly waive any and all rights and remedies allowed under 49 U.S.C. § 14101 to the extent that such rights and remedies conflict with this Agreement. Failure of BROKER to insist upon CARRIER's performance under this Agreement or to exercise any right or privilege, shall not be a waiver of any BROKER's rights or privileges herein.

19. **DISPUTE RESOLUTION**. This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the state of Indiana. In the event of any disagreement or dispute, the laws of Indiana shall apply. All such disagreements or disputes shall be submitted to the court of proper jurisdiction in the state of Indiana and the PARTIES hereby agree to the exclusive jurisdiction of the courts located in the state of Indiana. Notwithstanding the foregoing, the PARTIES may mutually agree in writing to submit any such disagreement or dispute to binding arbitration.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the date first above written.

“BUCHANANLOGISTICS,INC.”

“CARRIER”

X

X

Signature

Signature

Printed: Geary Buchanan

Printed: _____

Address: 4625 Industrial Road

Address: _____

Fort Wayne, IN 46825

Phone No.: 260-471-1877

Phone No.: _____

Fax No.: 260-918-1722

Emergency No.: _____

Email: brokerage@buchananhauling.com

Fax No.: _____

Email: dispatch@buchananhauling.com

FID No.: _____

Dispatch Email: _____

- No carrier can be set up without Dispatch Email, After Hours # and signed Communication Protocol.

Billing Contact Information:

Name: _____

Phone number: _____

E mail address: _____