

CARRIER-BROKER TRANSPORTATION AGREEMENT

This agreement (the “Agreement”) is made and intended to be effective this _____ day of _____, 20____ by and between INTEGRATED LOGISTICS SERVICES, INC. (“**BROKER**”) and _____ (“**CARRIER**”), collectively, the “**PARTIES.**”

Whereas, **BROKER** is a Property Broker of Transportation by motor vehicle, licensed to arrange for the transportation of property by Docket Number MC 336871 B (which is incorporated herein by reference and made a part hereof), and controls the transportation of the commodities to be tendered to **CARRIER**, in accordance with all applicable federal, state, and local laws, rules and regulations.

Whereas, **CARRIER**, is a Contract Motor Carrier of Property with USDOT Number _____ and authorized by Permit Number MC _____ (a copy of which permit is attached hereto and made a part hereof) to provide transportation of property under contract with shippers and receivers of general commodities in accordance with all applicable federal, state and local laws, rules and regulations.

NOW, THEREFORE, in consideration of the promises and representations made herein, the **PARTIES** agree as follows:

1. CARRIER’S Representations: **CARRIER** agrees – in conformance with all applicable provincial, federal, state and local laws, rules and regulations – to transport freight on behalf of **BROKER** at **BROKER’S** request between all geographical points for which **CARRIER** has authority and where **CARRIER** has accepted tender of shipment(s) from **BROKER**. In performing these services pursuant to this Agreement, **CARRIER** agrees and warrants that:

- (i) Upon **CARRIER’S** acceptance of **BROKER’S** Carrier Load Confirmation, **CARRIER** agrees to take receipt of, transport, and deliver such products promptly and efficiently to receivers designated in the Bill of Lading (see section 7 of this Agreement if the load destination in the Bill of Lading is different from the load destination in **BROKER’S** Carrier Load Confirmation). Each shipment shall be evidenced by a receipt in a form specified by **BROKER** or **BROKER’S** customer, signed by **CARRIER** and the receiver showing the kind and quantity of product received and delivered by **CARRIER** at the origin and destination locations, respectively. Absence or loss of such receipt form, however, shall not relieve **CARRIER** of responsibility for the cargo delivered to it.
- (ii) **CARRIER** will provide appropriate motor vehicles and equipment (the “Equipment”) that are in good, safe working condition and which comply with all applicable laws, rules, and regulations. **CARRIER** will ensure that Equipment with enclosed cargo areas are clean, dry and odor free. **CARRIER** will bear all expenses relating to procuring, operating, and maintaining the Equipment in accordance with the terms of this Agreement.
- (iii) **CARRIER** will provide only competent, able, and legally qualified drivers to operate the Equipment and will ensure said drivers have been trained in the proper care and

operation of the Equipment and the handling of the products being shipped. CARRIER shall have full control of all such personnel. CARRIER's drivers shall meet all current and future Department of Transportation qualifications including medical and drug and alcohol standards. Any employee of CARRIER who is medically unfit for duty will not be assigned or permitted to perform services under this Agreement. For purposes of this Agreement, any CARRIER employee who tests positive for drugs or alcohol will be deemed medically unfit for duty.

- (iv) At no time during the term of this Agreement shall CARRIER have an "Unsatisfactory" rating as determined by the Federal Motor Carrier Safety Administration (FMCSA). If CARRIER receives an "Unsatisfactory" safety rating, it shall immediately notify BROKER. CARRIER will also notify BROKER immediately if its federal Operating Authority is revoked, suspended or rendered inactive for any reason. CARRIER must provide a copy of its rating as determined by the FMCSA and other documentation related to its current operating authority to the BROKER upon request by BROKER.
- (v) CARRIER will be responsible for the auditing of driver log books or electronic logs and will ensure the day-to-day completion of the driver log books or electronic logs.
- (vi) CARRIER has the necessary permits from the appropriate governing provincial, state and federal authorities. CARRIER will, at its own expense, procure, and at all times during the term of this Agreement, maintain all the necessary permits, licenses and operating certificates required to perform the transportation and other services contemplated hereunder, and shall abide by all applicable laws, regulations, ordinances and any other rules of any local, state, provincial, or federal government or subdivision thereof including but not limited to hours-of-service, Equipment safety, and allowable cargo weight.
- (vii) CARRIER agrees to cooperate with BROKER, BROKER'S customer(s), shipper(s) and consignee(s) in order to accomplish the prompt and efficient transportation of products.
- (viii) CARRIER agrees to indemnify, defend and hold harmless BROKER and its customers, its employees or agents, from any and all claims, damages, liabilities, costs and expenses (including attorney's fees and consequential damages) arising from CARRIER'S performance, attempted performance, or failure to perform its obligations under this Agreement, or arising from the negligent, reckless or willful misconduct of CARRIER or its employees or agents. The obligation to defend shall include all costs of defense as they accrue. Exclusions in CARRIER'S insurance coverage shall not exonerate CARRIER from this liability.
- (ix) CARRIER will be liable to BROKER, BROKER'S customer or shipper for loss or damage to any products transported by CARRIER. Such liability shall begin at the time product is loaded upon CARRIER'S equipment at the origin location(s) and shall continue until the product is delivered to and accepted at the destination

location(s). Failure to issue a Bill of Lading does not affect the CARRIER'S liability. Furthermore, all fines and penalties assessed by shippers for late delivery or damage by CARRIER shall be the responsibility of CARRIER. CARRIER agrees that its liability for cargo loss or damage shall be no less than that of a Common Carrier as provided for in 49 U.S.C. 14706 (the Carmack Amendment). Exclusions in CARRIER'S insurance coverage shall not exonerate CARRIER from this liability. CARRIER agrees to work with shipper in good faith to timely resolve any claim.

- (x) Unless additional insurance coverage is required due to the transportation of any hazardous material, CARRIER will procure and maintain in force, at its own expense, throughout the term of this Agreement, with a responsible company or companies acceptable to BROKER:
- (a) Comprehensive general liability insurance, including Products and property, completed operations and contractual liability in amounts not less than One Million and no/100 Dollars (\$1,000,000) combined single limits;
 - (b) Comprehensive automobile liability in amounts not less than One Million and no/100 Dollars (\$1,000,000) combined single limits;
 - (c) All-risk cargo insurance with a per unit liability sufficient to cover all shipments made under this Agreement. Said Insurance shall have a minimum value of One Hundred Thousand and no/100 Dollars (\$100,000);
 - (d) Worker's compensation insurance in accordance with state and federal requirements and employer's liability coverage with limits of not less than Five Hundred Thousand and no/100 Dollars (\$500,000) or as required by applicable law.
- (xi) CARRIER agrees to keep in full force and effect the insurance coverage required by this Agreement at all times, naming INTEGRATED LOGISTIC SERVICES, INC. as an additional named insured or Certificate Holder. Furthermore, CARRIER shall cause its insurance carrier to forward to BROKER a standard Certificate of Insurance which Certificate shall require the insurance carrier to give BROKER written notice thirty (30) days prior to the cancellation of such insurance.
- (xii) CARRIER shall not withhold the 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. CARRIER shall expressly waive all rights and remedies under Title 49 U.S.C., Subtitle IV, Part B to the extent they conflict with this Agreement.

2. **Independent Contractor:** In the performance of work under this Agreement, CARRIER shall at all times be regarded as an independent contractor, and the relationship of the PARTIES hereunder shall in no event be construed to be that of principal and agent or employer and employee unless so expressed herein. BROKER may from time-to-time provide load information or special delivery directions directly to CARRIER, CARRIER employees or CARRIER subcontractors for the convenience of CARRIER. In no case shall BROKER's provision of load information or special delivery directions be construed as dispatching or directing the activities of CARRIER employees or subcontractors, it being the intent of the parties that CARRIER shall at all times maintain full control of Carrier's personnel in accordance with Section 1(iii) and CARRIER's performance under this Agreement shall be regarded as an independent contractor. CARRIER and BROKER acknowledge that this is not an exclusive agreement: BROKER may hire other carriers and CARRIER may work for other brokers. Moreover, BROKER makes no commitment to obtain any services from CARRIER except that BROKER agrees to offer to CARRIER at least **one** shipment.

3. **BROKER'S Right to Complete Load:** If CARRIER is unable to timely complete a shipment on the scheduled delivery date after shipment is loaded on CARRIER equipment due to accident, mechanical failure, driver failure, or any other reason, BROKER shall be entitled to arrange for the shipment to be completed for CARRIER through use of a different carrier. BROKER shall not execute its right to complete the shipment unless BROKER reasonably believes that CARRIER is unable to complete the load or in the event that BROKER reasonably believes that CARRIER cannot complete the load timely and where the failure to complete the shipment timely would create a significant burden on BROKER'S customer or shipper.

4. **Force Majeure:** Neither party hereto shall be liable for the failure to perform its obligations hereunder to the extent prevented from doing so by causes beyond its reasonable control, including, but not limited to, war, civil disturbances, strikes, lockouts, fires, floods, cyclones, accidents, intervention by any governmental unit, or acts of God. If such events prevent performance by CARRIER hereunder, CARRIER shall immediately notify BROKER in writing and BROKER shall have the right to make other arrangements for the transportation of the products. Upon recovery of CARRIER'S ability to perform hereunder, CARRIER shall so notify BROKER in writing, and CARRIER shall promptly arrange for acceptance of transportation by BROKER. If either party's inability to perform under this Agreement is continuing and permanent, this Agreement may be terminated.

5. **Compensation:** CARRIER shall mail, fax or email (scan) all signed delivery receipts and the signed shipper bill of lading (collectively "Carrier Documents") to BROKER'S mailing address, fax number or email address within seven (7) days after delivery of the corresponding products or goods. BROKER agrees to pay CARRIER, according to a compensation schedule set forth in BROKER'S Carrier Load Confirmation, which will be delivered to CARRIER at the time BROKER seeks CARRIER'S agreement to deliver. Said rates include any and all applicable road, fuel, and other taxes, assessments, surcharges, fees, permits, and any other charges. Compensation for the transportation authorized by this Agreement will be paid within twenty eight (28) days of receipt by the BROKER of the Carrier Documents and the CARRIER invoice, provided that CARRIER'S invoice must include the BROKER'S reference number (generally the Load Confirmation Number contained in BROKER'S Carrier Load Confirmation) for each shipment. CARRIER shall be the sole entity responsible for complying with all filing and/or rate schedule requirements, if any, governed by federal, state and local regulating bodies. CARRIER authorizes BROKER to invoice shipper, receiver, consignor or consignee for services provided by CARRIER.

CARRIER further agrees that BROKER is the sole party responsible for payment of its invoices and that, under no circumstance, will CARRIER seek payment from the shipper, consignee or BROKER'S customer except as allowable by law and only in the event that CARRIER has first provided BROKER with the Carrier Documents and CARRIER invoice (including the Load Confirmation Number) and after CARRIER has provided BROKER at least 14 days' written notice of BROKER'S failure to remit payment timely for a valid, undisputed freight invoice; the intent of the parties being that BROKER shall first have notice and an opportunity to cure before CARRIER shall attempt to collect from any party other than BROKER. Payment of the applicable freight charges by BROKER to CARRIER shall relieve shipper, receiver, consignor or consignee of any liability to the CARRIER for nonpayment of charges.

6. CARRIER Responsible for Weight: Without limiting any other aspect of CARRIER'S obligation to comply with all applicable rules, regulations, and laws, CARRIER acknowledges that BROKER has absolutely no responsibility for confirming the actual weight of any load or delivery or for ensuring that any loads comply with any law, rule or regulation governing the load and axle weight for each shipment.

7. Notification: CARRIER shall contact BROKER at BROKER'S office immediately upon the occurrence of any of the following events: (1) the product will not meet the agreed upon pick-up and/or delivery time and/or date; (2) a product claim, damage and/or shortage arises; (3) any detention delay of one (1) hour or more at pickup or delivery location(s); (4) a request for any accessorial service from the Shipper, Consignee or any third party where such accessorial service is not listed in the Carrier Load Confirmation including but not limited to redelivery, re-consignment, diversion, lumper service, or driver assist; (5) upon delivery of the product to its destination; or (6) where any conflict or difference exists between the BROKER'S Carrier Load Confirmation and the Shipper's Bill of Lading or Delivery Receipt.

8. Claims: BROKER shall promptly provide to CARRIER written notice of any claim for damage, shortage or the like. Subject to the terms of this Agreement, CARRIER agrees that the provisions contained in 49 C.F.R. 370.1 et seq. shall govern the processing of claims for loss, damage, injury or delay to property and the processing of salvage and that CARRIER will endeavor in good faith to resolve any claim timely.

9. Non-Solicitation: The PARTIES agree that BROKER, at great expense, has developed a broad customer and vendor base that is essential to the BROKER'S successful operation. CARRIER therefore expressly agrees that it shall not at any time, without written authorization from BROKER, solicit or perform services, directly or indirectly for any "BROKER Account," as defined below, during the effective time of this Agreement or for a period of 12 months following the termination of this Agreement. BROKER Accounts shall be identified as shipment lane(s) for any shipper, consignor, consignee, customer or receiver that CARRIER has picked up at or delivered to under an agreement between BROKER and CARRIER or that CARRIER first became aware of through performance of services under this Agreement. Proof of CARRIER having performed a service for a particular shipper/receiver may include any canceled check/draft paid to CARRIER in exchange for providing services to any shipping facility owned or controlled by the shipper/receiver. If CARRIER breaches this Agreement by soliciting or performing any service, directly or indirectly for any BROKER Account, BROKER is then entitled, for a period of 12 months after the involved service first begins, to a commission from the CARRIER of 25% of the transportation revenue received as a result of any services performed for the BROKER Account. CARRIER

shall provide BROKER with all documentation requested by BROKER to verify such transportation revenue. The obligations of this paragraph shall survive termination of this Agreement.

10. Confidentiality: 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) if 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.

11. Default and Termination:

A. Events of Default. The following shall be considered Events of Default:

- (i) CARRIER at any time during the term hereof breaches or defaults, in any respect, any of the representations, covenants, terms, conditions or agreements herein contained, including but not limited to CARRIER'S failure to perform as required herein or on any agreement with BROKER;
- (ii) CARRIER'S privilege to operate as a carrier or its required insurance coverage is revoked, cancelled or suspended;
- (iii) A petition in bankruptcy or other insolvency proceedings is filed by or against CARRIER, or a general assignment is made for the benefit of CARRIER'S creditors, or CARRIER is unable or unwilling to pay its debts as they become due;
- (iv) A receiver or trustee for any or all of CARRIER'S property is appointed.

B. Termination.

- (i) The duration of this Agreement shall be perpetual. However, this Agreement may be terminated by either party hereto upon the terminating party's thirty (30) days' written notice to the other party expressing intent to terminate the Agreement, whereupon the Agreement shall automatically terminate upon the expiration of said thirty (30) day notice period.
- (ii) If any Event of Default occurs, the BROKER may, but shall not be obligated, to terminate this Agreement by giving fourteen (14) days' prior written notice to that effect to CARRIER. Notwithstanding the foregoing, if CARRIER fully remedies all such breaches or defaults within the fourteen (14) day notice period, such notice shall be of no effect and this Agreement shall continue in full force and effect in the same manner as if no such Event of Default had occurred.
- (iii) In addition to the right of termination contained in this paragraph, BROKER shall have all of the rights and remedies permitted by law or in equity,

including but not limited to, the right to reimbursement for damages incurred, including those damages incurred during any fourteen (14) day notice period.

- (iv) All obligations related to services actually performed under this Agreement shall survive termination of this Agreement.

12. No Automatic Waiver: Failure to enforce any of the terms and conditions of this Agreement or subsequent agreement shall not be construed as a waiver or relinquishment of, or estoppel to assert or enforce, any of the provisions of this agreement in the future. 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.

13. Entire Agreement: The PARTIES certify that they have read all the provisions of this Agreement, that this Agreement constitutes the final and complete understanding between the PARTIES, and no other representation or promise, verbal or otherwise has been made. By execution of the Agreement, the PARTIES agree that this Agreement shall automatically invalidate any terms and covenants made in prior agreements between the PARTIES as of the date of the execution of this Agreement. No amendment or modification of the terms of this Agreement shall be binding unless in writing and signed by the PARTIES, except for any rate changes which shall be established and modified as set forth elsewhere in this Agreement.

14. Venue and Conflict of Laws: The PARTIES agree that if suit is brought against either party by the other, the terms and provisions of this Agreement shall be governed by the laws of the State of Ohio, without regard to any conflict of law principles. The PARTIES further agree to institute any litigation concerning or related to this Agreement in the Ohio courts situated in Wayne County, Ohio or the Northern District of Ohio and the PARTIES submit to the jurisdiction and service of process of the same.

15. Assignment: Neither party hereto shall assign all or any part of this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

16. Sub-contracting and Double-Brokering: 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 subcontract, broker, or in any other form arrange for the freight to be transported by a third party without the prior written consent of BROKER. A condition on any such consent is the third-party carrier's written agreement to be bound by all terms of this Agreement. In the event that CARRIER violates any portion of this paragraph or the preceding paragraph, including sub-contracting, brokering, or arranging freight tendered to CARRIER by BROKER without the prior written consent of BROKER, CARRIER shall automatically forfeit 25% of the CARRIER compensation for each load that violates this Agreement or \$500.00, whichever is greater, provided, however, that BROKER reserves the right to directly compensate the third-party carrier(s) that transport the shipment(s) originally tendered by BROKER to CARRIER in lieu of any amount(s) payable to CARRIER for each shipment transported in violation of this paragraph by providing CARRIER with written notice of its election to remit directly. If BROKER makes such election, CARRIER shall forfeit 100% of CARRIER compensation and BROKER shall have no further liability to the CARRIER with regard to such shipment. [Signature Page to Follow]



Mailing address: PO Box 477, 3500 Old Airport Rd, Wooster, OH 44691
Physical address: 1700 Old Mansfield Road Suite F • Wooster, OH 44691
Toll Free 877-398-7722 • 330-264-0522 • 330-437-2842 Fax
www.ilsdelivers.com

IN WITNESS WHEREOF, the PARTIES have affixed their hands and seals, the day and year first above set forth.

BROKER:
INTEGRATED LOGISTICS SERVICES, INC.

CARRIER: _____

By: *John Kulenich*

By: _____

Title: Director of Operations

Title: _____

Date: _____