



P.O. Box 889 • 394 NE Hemlock • Redmond, OR 97756

BROKER AND CARRIER AGREEMENT

All loads tendered by Central Oregon Truck Company ("Broker") and accepted for transportation by third party carriers ("Carrier") shall be subject to the following terms and conditions:

- 1. Carrier Representations.** Carrier is a contract motor carrier, insured and authorized to transport shipments in interstate commerce under the Federal Highway Administration with docket numbers and USDOT numbers as set forth on the signed load confirmation executed between Carrier and Broker. If Carrier is an entity other than an individual, Carrier represents and warrants that it is duly organized and in good standing and holds all requisite legal authority to conduct its business as it is currently conducted. Carrier represents that in performing services subject to this agreement it will; 1) only employ safe and qualified drivers; 2) will maintain a "Satisfactory" or better Carrier safety rating with FMCSA, and; 3) will immediately notify Broker in writing of any change in safety rating status, including any categorical deficiencies under the FMCSA's Safety Measurement System.
- 2. Broker Representations.** Broker is a registered property broker, license number MC443085, and is an agent authorized by its customers ("Shippers") to negotiate and arrange for transportation of their shipments with third party motor carriers in interstate commerce.
- 3. Scope of Agreement.** The parties have entered into this agreement for the purpose of establishing the terms under which Carrier agrees to provide transportation services to Broker during the period of this agreement. This agreement shall specifically include the terms and conditions as set forth in each and every load-specific rate confirmation sheet which, when entered into, shall be incorporated herein by this reference. Carrier shall have sole responsibility to determine and direct the manner, method and course of performing the transportation services hereunder, subject to compliance with the terms of this agreement and all regulations applicable to Carrier, and shall at all times be an independent contractor.
- 4. Term.** The term of this agreement shall be for one year from the date hereof, and shall automatically renew for successive one year terms, until canceled upon thirty (30) days written notice by either party. Either party may, but is not required to, immediately terminate this agreement in the event it becomes aware that the other party is in violation of any term of this agreement, or upon the insolvency or bankruptcy of the other party.

Our Mission: To be the #1 provider of flatbed transportation services in the US as measured by our safety ratings, employee satisfaction and retention, and our customers' satisfaction.



Security
Access
Privacy

5. Carrier's Obligations. In performing transportation services under this agreement, Carrier agrees to transport all loads and commodities tendered by Broker in a timely, safe and legal manner. Carrier shall furnish all necessary trucks, equipment, fuel, supplies and all labor connected therewith to perform its services hereunder at Carrier's sole expense, and Carrier will do so as a contract motor carrier and not as an employee or agent of the Broker. Carrier shall at all times conduct its business and operate in compliance with all local, state and federal laws and regulations governing the conduct of common and contract carriers in interstate commerce. Furthermore, Carrier agrees and Broker requires that Carrier have intimate and accurate knowledge of its driver's hours of service availability and safety record and shall provide said information to Broker upon its request. Carrier's knowledge must be utilized on a real time basis when performing under this agreement to insure that the transportation services can be completed safely, in conformance with all applicable laws and with the terms of this agreement, including delivery time restrictions.

6. No "Double Brokering". It is the parties' intention that all transportation accepted by Carrier pursuant to this agreement will be performed solely by Carrier under Carrier's authorization and utilizing Carrier's equipment, employees, and resources. In the event that Carrier is unable to comply with the specific transportation terms as set forth herein and on any applicable load tender and rate confirmation for any reason, Carrier shall immediately notify Broker and provide Broker with an alternative transportation plan, which Broker may accept or reject, in Broker's sole discretion.

7. Insurance. Without in anyway limiting Carrier's indemnity obligation in paragraphs 10 and 11, below, prior to entering into, and as an ongoing obligation throughout the term of this agreement including any extensions thereof, Carrier shall obtain, at its sole cost and expense, insurance policies with the following minimum attributes: 1) any and all policies of insurance as required by law; 2) workers compensation insurance, or similar insurance, for all of Carrier's employed drivers, in a form and amount sufficient to comply with minimum standards applicable to Carrier; 3) General Auto Liability in the minimum amount of \$1,000,000 and insuring against both bodily injury and property damage liability for each and every trip subject to this agreement; 4) a general umbrella policy of not less than \$1,000,000 and; 5) a minimum of \$100,000 of cargo coverage insurance naming Broker as loss payee on all commodities transported under this agreement, or in a higher amount as set forth on the applicable Rate Confirmation Sheet. The amounts and types of insurance set forth are the minimums required by Broker and is not a substitute for Carrier's independent determination of the amounts and types of insurance that Carrier shall deem to be necessary. All such insurance shall remain in full force and effect throughout the term of this agreement, including any extension thereof and each policy shall endorse Broker as an additional insured, excepting worker's compensation

insurance. Carrier shall provide Broker with certificates of required insurance and shall, at Broker's request from time to time, provide Broker with any requested policy including all exclusions and additional endorsements. Carrier further warrants that all policies contain a severability of interest provision in favor of Broker in order to insure that coverage to Broker will not be invalidated by any act or neglect of Carrier.

8. Compensation. Broker agrees to pay Carrier the rate as agreed by the parties as set forth in each load-specific rate confirmation sheet, within 30 days after receipt of the original paperwork including the Shipper's original bill of lading evidencing delivery of the freight in good condition and free of all claims as acknowledged by the consignee's signature. Carrier acknowledges and agrees that all original paperwork shall be provided to Broker within 14 calendar days of delivery of any load by Carrier pursuant to this agreement, and Carrier acknowledges that failure to comply with the foregoing provision shall result in a \$50 reduction in compensation due to Carrier hereunder. Likewise, if noted and required on any load-specific rate confirmation sheet, Carrier agrees to fax Broker proof of delivery within 12 hours of delivery of said load and that failure by Carrier to comply shall result in a \$50 reduction in compensation due to Carrier for the load at issue. Carrier agrees to look solely to Broker for any payment of freight and other charges owing under this Agreement, and agrees that its sole recourse in the event of nonpayment shall be against Broker, and not under any circumstances against any Shipper, consignee, or customer of Broker. The provisions of this section shall survive the termination of this Agreement for any reason.

9. Factoring "quick pay". Broker, in its sole discretion, may offer Carrier a separate service of factoring or providing compensation at the agreed rate upon receipt of the original paperwork including the Shipper's original bill of lading evidencing delivery of the freight in good condition and free of all claims as acknowledged by the consignee's signature. If Carrier desires to utilize quick pay, must make note of that on original bill of lading and proof of delivery paperwork delivered to Broker. If said paperwork is received by Broker before 11:30 AM Pacific Standard Time, Broker will process payment to Carrier the same day; if after 11:30 AM PST, payment will be processed the following day. In return for receiving quick pay as described, Broker and Carrier agree that Broker shall deduct 5% from the total amount due Carrier for the load(s) to which quick pay has been elected.

10. Loss/Damage. Carrier shall be liable for any loss or damage to any shipment or portion thereof, of which Carrier received possession for transport hereunder and shall indemnify, defend and hold Broker harmless from any and all claims, costs, fees, or expenses whatsoever, including attorney's fees, relating to same. Carrier is responsible for insuring that Carrier's cargo insurance is adequate to meet the requirements of paragraph 7, above. Broker may

withhold any payment to Carrier in an amount sufficient to reimburse or secure payment to Broker for any loss, costs or damages arising out of or related to Carrier's breach of this agreement. In addition to any other remedy provided herein or by law, Broker may withhold any payment to Carrier in the event the customer or other payer withholds payment to Broker due to any asserted claim of cargo loss, damage, untimely or inadequate delivery, in a like amount or as necessary to indemnify Shipper or Broker.

11. Indemnity. Carrier agrees, during and after the term of this agreement, to indemnify, defend, and hold Broker harmless from and against each and every criminal, civil or administrative claim, fine, penalty, suit, loss, damage or liability whatsoever and including attorney's fees and costs, related thereto, arising from or relating in any way to any act, omission or activity of Carrier, its representatives, agents, employees and assigns. Carrier's indemnity obligation shall not be limited by any statute, requirement or law including any workman's compensation act, disability benefit or other employee benefits acts. Any indemnity due or paid by Carrier under this agreement shall be in addition to any and all other legal remedies available to Broker and shall not be considered the Broker's exclusive remedy. In addition, Broker shall be entitled to receive reimbursement of its attorney's fees and costs incurred in enforcing its rights to defense and indemnification hereunder. Nothing herein may be construed to require Carrier to indemnify Broker for cost or claims resulting from the willful misconduct or gross negligence of Broker.

12. Dispute Resolution. Carrier agrees that Broker has a significant interest in resolving any and all claims, demands, complaints or causes of action whatsoever arising from or related to the transportation services performed under this agreement. Carrier agrees that it will not go directly to nor communicate any claims, demands, complaints or causes of action to Shipper without first allowing Broker a reasonable opportunity to negotiate and resolve the dispute. In performing this dispute resolution function, Broker shall use any process or procedure it deems reasonable under the circumstances. If Broker is unable to resolve the conflict within a reasonable time it will notify Carrier of Carrier's release from continued compliance with this provision. However, any release by broker of Carrier's obligation under this provision shall not serve to or operate as a release, discharge or modification of any other provision of this agreement and all such provisions shall remain in full force and effect. Carrier's termination or the expiration of this agreement shall not release Carrier from its obligation as provided in this provision.

13. Arbitration. Any disputes related to or arising from the subject matter of this agreement shall be resolved by binding arbitration conducted in Deschutes County, Oregon, pursuant to the rules of the Arbitration Service of Portland, Inc., and in accordance with the

laws of the State of Oregon. Arbitration must be commenced within 365 days of completion of shipping services provided hereunder, or the date on which the dispute arose, whichever is earlier. The decision of the arbitrator may be entered and enforced in any court of competent jurisdiction and shall specify the prevailing party.

14. Modification/Assignment. This agreement shall not be modified except by a writing signed by both parties and is not assignable by either party.

15. Force Majeure. In the event that either party to this agreement shall be prevented from or delayed in performing any of its obligations on account of any law or legally binding order, regulation, or act of any government or any department or agency thereof, or on account of war, civil disorder, acts of God, or labor disturbances, such party shall be excused from performing its obligations under this agreement to a like extent; and neither party shall be liable to the other for damages by reason of any such delay or suspension of performance resulting from the disabilities listed above. However, this provision shall not operate to excuse performance of any party when the failure or delay in performance was the result, or partial result, of that party's own action or inaction or when the party could have exercised control over the circumstances to prevent or minimize the failure or delay in performance.

16. Severability. If any provision of this agreement is deemed unenforceable for any reason, the remaining portion of this agreement shall remain in full force and effect so long as the provision deemed unenforceable does not destroy the basic intent of the parties herein, i.e., for Broker to profitably provide freight transportation services.

17. Governing Law. This agreement shall be governed by and interpreted under the laws of the State of Oregon and applicable federal.

18. Non-Competition/Back Solicitation Prohibited. In consideration of Broker's agreement to offer transportation of freight to Carrier pursuant to this agreement, Carrier agrees that during the term of this agreement, including any extensions thereof, and for an equal term after the termination or expiration of this agreement, Carrier shall not solicit freight shipment business from any customer of Broker for whom Carrier transported any goods or commodities pursuant to this Agreement, excepting customers that are also current customers of Carrier at the execution of this agreement. As liquidated damages, Carrier agrees to pay Broker a 15% commission on all transportation services handled by Carrier in violation of this provision for a period of one (1) year, which commission shall be based upon Carrier's gross total receipts received in violation of this paragraph. The provisions of this section shall survive the termination of this Agreement for any reason.

19. Entire Agreement. Where provisions of any tariff, receipt or bill of lading differ or are in conflict with this agreement, the provisions of this agreement shall apply. This agreement, including any incorporated exhibits and additional written conditions, contains the entire agreement of the parties regarding the subject matter hereof and there are no oral agreements, promises or representations regarding the subject matter that have not been included, and all prior agreements are hereby expressly terminated and any termination notice requirements therein are hereby expressly waived.

20. Notices. All notices given in connection with this Agreement shall be in writing and shall be effective when sent via facsimile, within 48 hours after being sent by certified mail with return receipt requested, or 72 hours after being sent 1st class regular US Mail and addressed to such party at its address shown below, which may be changed by either party upon written notice to the other.

21. Acceptance of Terms. By accepting and executing a load confirmation from Broker, Carrier agrees to be bound by the foregoing terms and conditions.