

OWNER — OPERATOR LEASE AGREEMENT

CARRIER_NAME

This AGREEMENT ("Agreement"), made as of this **May 19, 2024**, by and between **CARRIER_NAME** ("Carrier") and _____ ("Contractor").

Recitals

1. The Carrier holds permits under authority granted by federal, state, and other agencies. Carrier is authorized by the Federal Highway Administration, with **MC NUMBER – MC_NUMBER** and **US DOT NUMBER – US_DOT_NUMBER**, to provide transportation of property under contract with brokers, shippers, and receivers of general commodities. This service is facilitated through arrangements with independent contractors possessing motor vehicle equipment.
2. The Contractor is the owner of the tractor and/or trailer equipment described in the Equipment Description section and is duly authorized and empowered to execute this Agreement. The Contractor is engaged in the business of transporting freight by motor vehicle on behalf of and pursuant to independent contractor agreements with for-hire motor carriers and shippers. As used herein, "Contractor" means any person defined in 49 CFR § 376.2(d)¹, including the Contractor and its drivers, employees, agents, or independent contractors.

Equipment Description

	<u>Tractor</u>		<u>Trailer</u>
Year:	VEHICLE_YEAR	Year:	TRAILER_YEAR
Make:	VEHICLE_MAKE	Make:	TRAILER_MAKE
Model:	VEHICLE_MODEL	Trailer No.:	TRAILER_NUMBER
Lic. Plate:	VEHICLE_LIC_PLATE	Lic. Plate:	TRAILER_LIC_PLATE
VIN:	VEHICLE_VIN	VIN:	TRAILER_VIN

3. Carrier and Contractor desire to enter into an agreement to carry out the foregoing.

Terms

1. Equipment. Contractor agrees and warrants:
 - (a) To furnish the equipment ("Equipment") identified in the Equipment Description section herein. The Contractor's Equipment list may be amended by an amendment signed by authorized representatives of Carrier and Contractor with copies provided to each.
 - (b) That equipment subject to this Agreement meets the US Department of Transportation ("DOT") safety requirements and standards. Carrier reserves the right to terminate this Agreement at any time that Equipment subject to this Agreement fails to meet DOT safety requirements and standards.
 - (c) That Contractor holds full legal title or has the legal right to exercise full control over the Equipment.

¹ **The Office of the Federal Register:** Title 49 – § 376.2(d)
<https://www.ecfr.gov/current/title-49/part-376/section-376.2>

- (d) To affix to the Equipment the identification provided by Carrier required by federal, state, and other agencies, including Carrier's name and MC number. Such identification shall be removed immediately and returned to Carrier upon termination of this Agreement. In the event such identification cannot be removed but has to be painted over, Contractor shall immediately cause to have such repainting done and shall provide Carrier with a photograph of each repainted door, and in each photograph, the front page of a current newspaper evidencing the date of the photograph. Failure to furnish evidence of the removal of identification from the Equipment will result in the withholding of the final settlement.
- (e) To pay all operating expenses, including, but not limited to, all expenses of fuel (including reefer fuel), oil, tires, maintenance, repairs, and other items necessary for the safe and efficient operation of the Equipment, meals and lodging, installation and usage fees of any and all communication equipment, such as Qualcomm or Citizens' Band (CB) radio on the Equipment, road taxes, mileage taxes, tolls, ferries, fines for parking, moving or weight violations, licenses, permits, or any other assessments based upon the operation of the Equipment in compliance with the rules and regulations of the DOT and all other federal, state, and foreign regulatory bodies having jurisdiction over Contractor's operations and Equipment, including all such costs related to all loaded and empty mileage. Contractor hereby agrees that, if it becomes necessary for Carrier to pay for any of Contractor's operating expenses, Carrier shall deduct such cost from Contractor's payment upon settlement.
- (f) To maintain the Equipment in proper operating condition to satisfy any federal, state, or Carrier safety inspection at any time and to make such repairs as may be found necessary. The Contractor shall be responsible for undertaking and passing annual DOT safety inspections. The Contractor shall cause all vehicles to be in compliance with any and all applicable federal and state regulations as presently in force or enacted in the future and cause all vehicles to be operated in compliance therewith. The choice of location and persons to perform any necessary maintenance or repairs is vested exclusively in the Contractor. Contractor shall provide Carrier with legible copies of all repairs and maintenance performed on the Equipment at the time such work records covering the Equipment required by the regulations of the DOT and any other applicable governmental agency shall be forwarded by Contractor to Carrier by the last day of each calendar month during the term of this Agreement. If such records are not delivered to the Carrier within 7 days following the end of each month, or are incomplete, Carrier reserves the right to terminate this Agreement or suspend the same until complete records are supplied. Contractor further agrees that Carrier will have no obligation or responsibility for the repair of damage to the Equipment, regardless of cause.
- (g) To ensure that any and all reefer trailers ("Reefer Equipment") subject to this Agreement are calibrated every 3 months. The Contractor hereby agrees to operate such Reefer Equipment under "continuous operation" setting at all times while transporting freight dispatched by Carrier. For any and all produce shipments, Contractor shall use a temperature recorder to create a continuous temperature record and to ensure the constant setting of the set temperature. Unless said temperature recorder has been provided by the shipper, Contractor shall be responsible for the cost and maintenance of such temperature recorder.
- (h) To conduct a "Clean Operation" in compliance with Carrier demands. Clean Operation shall include: all items required under safety procedures, check calls, on-time loading, on-time delivery, deliveries at correct destinations, prompt reporting of all cargo discrepancies, proper disposition of refused freight as directed by Carrier, no unauthorized handling of freight, no adverse safety reports, and no discourteousness while under dispatch or at Carrier facility. Carrier shall have the right to terminate this Agreement for cause, immediately and without prior notice, upon the occasion of any failure to comply herewith.
- (i) The Contractor is responsible for ensuring seal integrity prior to the departure of a shipment and throughout delivery until the entire shipment has been delivered. Contractor is also responsible for keeping a continuous seal record, which shall be maintained and documented on all bills of lading for each stop of the shipment. Incidents where tampering may have compromised the integrity of a seal prior to delivery shall be reported to the Carrier immediately. Contractor shall

not break or otherwise tamper with a seal, until and unless the receiver accepts the cargo and signs off on the bill of lading and directs the Contractor to break the seal. In the event that the Contractor breaks or tampers with a seal, or otherwise fails to ensure seal integrity at any point prior to delivery, the Carrier shall deem such shipment rejected by the receiver and reserves the right to deny payment of the settlement to the Contractor.

- (j) That in the event the Carrier supplies the trailer to be pulled by the Contractor, the Carrier will maintain or cause to be maintained the trailer and accessory trailer equipment furnished by the Carrier. The Contractor shall be responsible and liable for all loss of or damage to any such trailer and accessory equipment occurring while in the possession or custody of the Contractor, arising out of the negligent or intentional acts of Contractor or Contractor's employees or agents, excepting such loss or damage as Carrier is compensated for under any applicable insurance or otherwise, and Contractor will indemnify and defend Carrier against any loss on account thereof. In the event Contractor supplies the trailer equipment under this Agreement, Contractor shall be responsible for the maintenance of the trailer and accessory equipment furnished by Contractor.

2. Contractor Payments and Settlements

- (a) The Carrier, for the full and proper performance of this Agreement by the Contractor, agrees to pay the Contractor **GROSS_REVENUE_COMMISSION%** of the gross line haul revenue for the lease of the Contractor's Equipment. The gross line haul revenue shall be the gross revenue calculated based on the individual customer rate agreements established and on file in the Carrier's office. The gross line haul revenue shall not include any charges, fees, and costs intended to reimburse the Carrier. Exceptions will be made only as agreed upon in advance of any trip to which such an exception will apply. In the event of exceptions, the Carrier's documentation of exception pay will prevail.
- (b) In the event that Contractor fails to expeditiously and safely deliver the commodities for any reason, Carrier reserves the right to deny payment of settlement for that shipment to Contractor.
- (c) The Contractor shall be solely responsible for any and all costs of fuel necessary for the transportation of any freight dispatched by the Carrier. Contractor understands and agrees that any and all advances of money made by the Carrier to Contractor or its drivers for Contractor's fuel expenses will be deducted by the Carrier from the Contractor's settlements, and if not deducted, Contractor agrees to reimburse Carrier for the same.
- (d) The Contractor shall not be entitled to additional compensation for loading and unloading beyond the contract settlement of **GROSS_REVENUE_COMMISSION%** of gross line haul revenue. The Contractor shall be solely responsible for any and all lump sum fees incurred in the transportation of freight dispatched by the Carrier. In the event that a broker or shipper agrees to cover such lump sum fees, Contractor shall include a Comcheck confirmation number on the lump sum receipt. The Contractor's settlement will be subject to change back by the Carrier if a broker and/or shipper does not cover lump sum fees.
- (e) The Contractor or its drivers shall not request or receive any advance of money directly from a broker or any other third party. Carrier shall have the sole discretion as to the advance of money to Contractor or its drivers, with the right to deduct the same from Contractor's settlement. Advances may be made to Contractor's drivers by Carrier unless Contractor, by a signed addendum to this Agreement, directs that there shall be no advances. Contractor hereby acknowledges that each advance of money made by the Carrier to the Contractor, or its drivers, is subject to an administrative fee of **CASH_ADVANCE_SERVICE_FEE%** of the total advance, which shall be deducted by the Carrier from Contractor's settlement.
- (f) Carrier shall make contract payments to Contractor upon submission by Contractor to Carrier, by US mail, express courier, or in person, of all of the following documentation:
 - i. The log books required by the DOT.
 - ii. Those fully executed original documents necessary for Carrier to secure payment on the shipment, which consists of delivery receipts, receipted bills of lading or loading manifests, trip

fuel reports, fuel receipts, monthly maintenance reports, and weight tickets where required, all of which must be properly completed and signed by the appropriate representatives of the consignor and consignee.

- iii. Upon termination of this Agreement, and as a condition precedent to settlement, Contractor shall remove all identification devices of Carrier and, except in the case of identification painted directly on the equipment, return them to Carrier, pursuant to paragraph Terms: *Equipment* – (d) of this Agreement.
- (g) The Contractor understands and agrees that failure to submit all required documents will result in a delay or non-payment of settlement by Carrier.
- (h) The Contractor shall legibly identify the Carrier's name, trip number obtained from dispatch, name, and signature of the Contractor or Contractor's driver on the bill of lading. The Contractor understands and agrees that failure to include any piece of this information on the bill of lading will result in non-payment of settlement by Carrier. Contractor shall be responsible for inspecting the freight with the consignee, marking any exceptions to the condition or damage to the shipment that occurred during transit, and obtaining the receiver's signature upon delivery and acceptance of freight. Any notation of missing or damaged cargo on the bill of lading will result in a delay or non-payment of settlement by Carrier.
- (i) The Contractor is prohibited from showing any bill of lading for freight dispatched by Carrier to any third party. The Contractor will be subject to an administrative fine of up to two thousand dollars (\$2,000.00) for each instance that this provision is violated.
- (j) The Contractor shall not hold hostage any cargo dispatched by Carrier subject to payment of any prior settlement(s) Contractor believes is due from Carrier. The Contractor will be subject to an administrative fine of up to two thousand dollars (\$2,000.00) for each instance that this provision is violated.
- (k) Where settlement payments are based on the percentage of gross line haul revenue for a shipment, Carrier shall provide information disclosing the rated freight bill amount to Contractor, subject to the right of Carrier to delete the names of shippers and customers, and Contractor shall have the right to examine copies of Carrier's applicable rate agreement at Carrier's office.
- (l) Carrier may deduct from any amounts due to Contractor all amounts to cover Contractor's obligations under this Agreement, including any obligations of Contractor to Carrier for costs and expenses of Contractor incurred by Carrier, any amounts deducted by the broker and/or shipper from Carrier's gross line haul revenue for any reason, and all amounts which may have been advanced by Carrier on behalf of Contractor, plus those fines, penalties, interest, taxes, fees and assessments levied on the Contractor will, upon request, be provided by Carrier those documents necessary to determine and compute such charges and deductions.

3. Contractor's Personnel

- (a) Contractor agrees to furnish drivers and all other necessary labor to perform all of the work Carrier provides for in its rate schedules and contracts necessary for:
 - i. The transportation of such commodities
 - ii. The loading and unloading of such commodities
- (b) Contractor certifies, represents, and warrants that all driver personnel furnished by Contractor and covered by this Agreement will meet and satisfy the driver qualifications of the DOT, the appropriate states, and those of Carrier based thereon and related thereto. This includes all applicable drug and alcohol regulations, and warrants cooperation with all testing procedures. Only such qualified personnel may operate the Equipment leased to Carrier by the Contractor under this Agreement. The Contractor shall furnish to Carrier proof of such qualifications as Carrier may reasonably require.
- (c) Contractor agrees that Contractor and Contractor's drivers, personnel, and agents will not place in or on, or carry onto the Equipment, any alcohol, narcotics, illegal drugs, controlled substances,

explosives, firearms, contraband, or unauthorized commodities or hazardous materials. Any violation of this provision shall permit Carrier to terminate this Agreement immediately without notice. If a violation of this provision subjects Carrier to any expenditures or sanctions, Contractor agrees to reimburse Carrier for the same.

- (d) The Contractor and all personnel furnished or used by the Contractor, including drivers, driver's helpers, and laborers, are the employees, agents, or independent contractors of the Contractor and not of Carrier and as such, Contractor is solely responsible for:
 - i. The employee deductions, as may be required by governmental agencies.
 - ii. Self-employment taxes, withholding taxes, FICA taxes, unemployment compensation taxes, and any other related taxes and obligations.
 - iii. Provision of workers' compensation insurance and occupational accident and disability insurance for all personnel and drivers provided by the Contractor, including those qualified to operate the Equipment.
 - iv. The Contractor's management of their employees, agents, and independent contractors, including recruitment, dismissal, supervision, direction, training, wage setting, work hours and conditions, and handling of grievances.
 - v. Training the Contractor's employees, agents, and independent contractors on the Carrier's policies, requirements, and the terms of this Agreement.
 - vi. All costs associated with commercial driver physical qualification tests as required under 49 CFR §§ 391.41 – 391.49², and any other qualification testing conducted by the Contractor.
 - vii. All operating costs and expenses incurred by the Contractor's employees, agents, and independent contractors while operating the Equipment under this Agreement.
- (e) The driver or drivers of the Equipment shall be exclusively the Contractor and/or the employees, agents, or independent contractors of the Contractor. The Contractor, and only the Contractor, shall be the employer of himself or herself and such additional drivers within the meaning of the Internal Revenue Code § 3401(d)³. The Carrier shall have no control over any funds it pays to the Contractor, and such funds shall not be considered wages within the meaning of § 3401(a)⁴ of the Internal Revenue Code.
- (f) The Contractor agrees to indemnify, defend, and hold harmless the Carrier, its parent companies, their directors, employees, and agents from any liability, claims, damages, losses, or expenses of others, including reasonable attorney fees, arising from or in any manner connected with, whether under industrial accident laws, workers' compensation laws, or any other state, federal, or common law or precedent applicable to the relationship between employers and employees.
- (g) No passengers are permitted in the Equipment without the prior written approval of each passenger by both the Contractor and the Carrier.

4. Independent Contractor

- (a) The parties intend to create by this Agreement only the relationship of Carrier and Independent Contractor, and not an Employer and Employee relationship. Nothing in this Agreement is intended to, nor shall be deemed to, affect the status of the Contractor as an independent contractor hereunder.
- (b) The Contractor shall determine the method, means, and manner of performing this Agreement and shall be responsible to the Carrier for the performance of this Agreement in accordance with the rules and regulations of appropriate regulatory agencies. The Carrier shall comply with all such rules and regulations, but the Carrier shall not have the right to and will not control the manner or prescribe the method of doing that portion of the operations which is contracted for in

² **The Office of the Federal Register:** *Title 49 – Part 391: Subpart E — Physical Qualifications and Examinations*
<https://www.ecfr.gov/current/title-49/part-391/subpart-E>

³ **Internal Revenue Service:** *Third Party Payer Arrangements – Professional Employer Organizations*
<https://www.irs.gov/government-entities/third-party-payer-arrangements-professional-employer-organizations>

⁴ **Legal Information Institute – U.S. Code:** *Title 26 – Subtitle C: Chapter 24 — § 3401 - Definitions*
<https://www.law.cornell.edu/uscode/text/26/3401>

this Agreement, except such control as can reasonably be construed to be required by said rules and regulations.

- (c) The Carrier has no obligation to pay or withhold state or federal employee taxes, or to provide workers' compensation, unemployment insurance, or occupational accidents and disability insurance for the Contractor or employees, agents, or independent contractors of the Contractor. The Contractor agrees to pay all applicable self-employment taxes.
- (d) The Contractor shall have the right to reject any load assignment and has the right and responsibility to choose the route of travel and at what point drivers shall take rest stops and refuel the equipment.
- (e) The parties are not the agents of each other, and neither party shall have the right to bind the other by contract or otherwise, except as herein specifically provided. The Contractor shall not charge or obtain any article of property or other thing of value on credit, either directly or indirectly, to the Carrier, nor in any manner attempt to do so.

5. Additional Duties

- (a) The Contractor shall be solely responsible for any and all pre-trip and post-trip inspections of the Equipment.
- (b) When under dispatch, the Contractor shall place a check-in call to the Carrier every day between the hours of 8:00 am and 10:00 am Pacific Standard Time, unless otherwise specified in written form. The Contractor will be subject to an administrative fine of up to two hundred dollars (\$200.00) for each instance in which this provision is violated.
- (c) The Contractor shall not, under any circumstances, abandon the Equipment and/or cargo subject to this Agreement while under the Carrier's dispatch.
- (d) The Contractor shall keep their phone turned on at all times during the operation of the Equipment while under the Carrier's dispatch.
- (e) The Contractor shall properly determine the condition of the freight at the time such freight is picked up from the shipper. The Contractor shall inspect all shipments at the time of pick-up, verify each item of the freight (i.e., count pallets, pieces, boxes) against the bill of lading to ensure that all items are accounted for, and ensure that the receiver marks any exceptions or conditions on the bill of lading. The Contractor shall immediately report any and all shortages, pilferage, spoilage, damage, or any other discrepancies of the cargo to the Carrier before pick-up is confirmed.
- (f) The Contractor has a duty to transport each shipment to its destination in nearly the same condition as when it was picked up.
- (g) The Contractor agrees to provide the Carrier with written notice, one (1) week in advance, of its decision to place any Equipment subject to this agreement out of operation for a period longer than two (2) weeks.
- (h) In the event the Contractor receives instructions regarding the transportation of cargo subject to this Agreement from a broker that are inconsistent with instructions received from the Carrier's dispatch, the Contractor shall follow the directions given by the Carrier's dispatch.

6. Traffic

- (a) The Carrier agrees in good faith to furnish the Contractor traffic during the term of this Agreement. However, the Carrier shall not be bound to furnish any specific minimum of loads or pounds of freight at any particular time or any particular place, nor is there any guarantee by the Carrier to the Contractor of a minimum number of miles.

7. Taxes, Licenses, and Permits

- (a) The Contractor shall be responsible for the full cost of all road taxes, mileage taxes, fuel taxes, ad valorem taxes, plates, base plates, licenses, permits of all types, highway use taxes, and all other levies or assessments based upon the operation of the Equipment.

- (b) The Contractor shall supply the Carrier with any and all original fuel receipts, particularly those receipts made out in the Carrier's name, and fuel and mileage reports upon completion of each trip.

8. Insurance and Claims

- (a) The Contractor shall be solely responsible for paying any and all insurance costs for the operation of the Contractor's Equipment subject to this Agreement. The Contractor agrees to provide, during the term of this Agreement, insurance naming the Carrier as additional insured on a per-occurrence basis, for the following coverage:
 - i. Liability Insurance. The Contractor is responsible for providing primary liability insurance coverage on the Contractor's Equipment with minimum coverage limits of not less than \$750,000.00 combined single limit, excluding cargo insurance.
 - ii. Physical Damage. The Contractor is responsible for providing collision, fire, and theft insurance (physical damage) coverage on the Contractor's Equipment. When the Contractor's tractor is used to pull a trailer owned or operated by the Carrier, the Contractor shall be strictly liable to the Carrier for any loss or damage to said trailer, including the refrigeration unit, tires, and all other components, for each accident. An accident shall include damage to the Carrier's trailer caused by a preventable or non-recoverable collision or incident involving the Carrier's trailer while in the care and custody of the Contractor. The Contractor further agrees to be responsible and liable to the Carrier for the full amount of loss or damage to the Carrier's trailer while in the care and custody of the Contractor when said loss or damage results from illegal use or willful negligence or misconduct of the Contractor or the Contractor's employee.
 - iii. Cargo Insurance. The Contractor is responsible for providing cargo insurance coverage with minimum coverage limits of not less than \$200,000.00 per occurrence. The Contractor shall be responsible for any and all cargo claims that are a result of mechanical failure.
 - iv. The Contractor agrees to furnish to the Carrier proper evidence of each insurance coverage identified herein at the time of the execution of this Agreement and to maintain all such insurance in force at all times during the duration of this Agreement.
 - v. The Contractor agrees to provide the Carrier written notice, within 24 hours, of cancellation or reduction of limits of insurance identified herein. Any such cancellation or reduction shall not affect the obligations of the Contractor to maintain such insurance.
- (b) Pursuant to FHWA regulations under 49 USC 10927 and other applicable federal and state regulations, the Carrier shall maintain insurance coverage or provide evidence of self-insurance for public liability and property damage.
- (c) In the event of any loss, damage, occurrence, or claim arising from the Contractor's performance of this Agreement, insurance policies provided by the Contractor under this Agreement shall provide primary coverage for such loss, damage, occurrence, or claim. Coverage by insurance policies maintained by the Carrier shall provide excess coverage, but not until and unless the limits of the Contractor's primary policies have been exhausted by the way of judgment or settlement.
- (d) In the event that collection of transportation charges prior to delivery is required, the Contractor will collect and promptly remit to the Carrier all amounts paid to the Contractor or the Contractor's drivers by the Carrier's consignors or consignees for transportation charges or otherwise under the Carrier's shipping or billing documents. The Contractor will be liable for any amounts which the Contractor fails to collect when so specified on the shipping or billing documents unless an officer or authorized employee of the Carrier gives the Contractor written permission to deliver such shipment without the collection of said charges.

9. Fines and Assessments

- (a) Contractor shall be financially responsible for any fines, violations, inspections, or traffic citations, or other assessments arising from the operation of the Equipment, including all penalties, tolls, ferry costs, detention and accessorial taxes, and other obligations that are incurred by reason

of the route over which Contractor's vehicle is operated or the operation of the same. The Contractor shall disclose to Carrier by fax or mail within 24 hours of receipt of any fine, violation, inspection, or traffic citations or other assessment arising from the operation of the Equipment. The Contractor shall keep a record of the confirmation of the fax or mail transmission to the Carrier showing the date, time, and fax numbers from/to which the fax was transmitted.

- (b) The Contractor is responsible for ensuring that each load is legal from all standpoints, including those of weight and size, before commencing each trip and during the conduct thereof. The Contractor shall notify Carrier regarding any cargo irregularities before pick-up is completed. If Contractor fails to ensure, or transports without the express written approval of the Carrier, to exceed a limitation brought to the attention of the Carrier by Contractor, Contractor shall be responsible for any subsequent fines.
- (c) The Contractor shall be responsible for ensuring that each driver operates in a legal and safe manner. The Contractor shall be responsible for any fines levied for failure of any driver to do so.

10. Accidents and Claim Reporting

- (a) Contractor agrees to notify the Carrier immediately by telephone of the occurrence of any accident, mechanical breakdown, or other faulty operation involving the Equipment or cargo covered by this Agreement which could impair the performance of the agreed-upon dispatch. The Contractor further agrees to provide a full written report of the details of such occurrence within 24 hours from such occurrence. Such notice shall contain all available information relating to the time, place, and circumstances of the accident and the names and addresses of all witnesses.
- (b) Contractor agrees to report promptly to the Carrier any claims, damages, or freight discrepancies of any kind whatsoever which involve the vehicles and cargo covered by this Agreement and furnish the Carrier with such written reports, affidavits, and other assistance as may be necessary to investigate, settle, or litigate any existing or potential claims against the Carrier. The Contractor further agrees to follow Carrier instructions as directed by the shipper regarding the disposition of refused freight.
- (c) In the event of Contractor's death resulting from any natural cause or resulting from any accident, negligent operation, maintenance, mechanical breakdown, or any other faulty operation or use of the Equipment or cargo subject to this Agreement, Contractor understands and agrees that Carrier shall not be responsible for any costs, including shipping and funeral costs, associated with such death. Contractor hereby understands and agrees that Contractor's estate shall be solely liable for any and all costs associated with Contractor's death.

11. Trip Interruption

- (a) If, in the opinion of the Carrier, Contractor violates this Agreement in such a manner as to fail to complete transportation of commodities in transit, abandons a shipment, has a breakdown, has an accident, or otherwise fails to expeditiously and safely deliver the commodities and thereby subjects Carrier to potential liability to brokers and/or shippers pursuant to applicable laws and regulations, Contractor agrees that Carrier shall have the right to complete the trip involved in any manner Carrier deems appropriate.
- (b) Contractor hereby waives any recourse against Carrier for such action and agrees to reimburse Carrier for any costs and expenses arising out of such completion of such trip, including but not limited to, tractor rental, re-loading fees, forklift rental, storage, parking, and towing fees, and additionally, to pay to Carrier any damages for which Carrier may be liable to broker and/or shipper arising out of such violation of this Agreement by Contractor.
- (c) Upon completion of such trip, if Contractor's Equipment becomes separated from Contractor or Contractor's driver or agent, said Equipment shall be returned to Contractor at the location specified by Carrier.

12. Related Agreements

- (a) Carrier does not furnish to Contractor or Contractor's drivers any products, equipment, insurance, or services, and Contractor shall not assume any such products, equipment, insurance, or services have or will be furnished by Carrier, unless otherwise specifically provided for in this Agreement.
- (b) Any Equipment purchase or rental agreements that might be entered into between the parties will be considered separate and distinct from this Agreement. All provisions therein relating to the Contractor's payment obligations and authorizing Carrier to make deductions from any sums due Contractor must be in writing and signed and agreed to by Contractor.

13. Indemnification

- (a) In the event Carrier incurs any liability, expense, costs, or attorneys' fees resulting from Contractor's failure to comply with the provisions of this Agreement or resulting from Contractor's negligent or intentional performance under the provisions of this Agreement, Contractor agrees to indemnify, defend, and save harmless Carrier from such liability, expense, costs, or attorneys' fees.

14. Unauthorized Transportation Under Carrier Authority

- (a) For the duration of this Agreement, Contractor shall not transport freight on the Equipment under Carrier's authority as set forth herein, for any for-hire carrier other than the Carrier without prior approval by the Carrier. Contractor shall be solely responsible and liable for all loss of or damage occurring while Contractor transports freight on the Equipment under Carrier's authority in violation of this provision, and Contractor will indemnify and defend Carrier against any loss on account thereof. Carrier shall have the right to terminate this Agreement for cause immediately and without prior notice upon the occasion of any failure to comply herewith.

15. Arbitration

- (a) Any controversy or claim arising out of, or relating to this Agreement or breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules, then obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. The arbitrator(s) shall not be authorized to award punitive or exemplary damages. Any arbitration proceedings shall be conducted in Sacramento, California.

16. Governing Law

- (a) This Agreement shall be governed by the laws of the State of California, both as to interpretation and performance. It is agreed that execution of this Agreement shall be deemed to have taken place in Sacramento, California. Notwithstanding any act to the contrary, all matters pertaining to any provisions contained in this Agreement shall be interpreted under the laws of the State of California. The Contractor expressly consents to the jurisdiction of the courts of Sacramento County, California.

17. Waiver

- (a) Any waiver by Carrier of any provision of this Agreement does not constitute a permanent waiver of that provision, nor does the forgiveness by Carrier of a violation or breach of any provision of this Agreement constitute a forgiveness of any subsequent violation or breach.

18. Entire Agreement and Survivability

- (a) This Agreement and any appendix and addendum hereto, together with any trip record used pursuant hereto, constitute the entire Agreement between the parties and shall not be amended in any respect unless in writing and signed by both parties. If any provision of this Agreement shall be held invalid for any reason, the balance of this Agreement shall remain in full force and effect.

19. Agreement Effect

- (a) This Agreement in no way constitutes a release or discharge of Contractor from Contractor's primary liability for payment and performance under any existing financing, purchase, mortgage, lien, or lease agreements to which Contractor is a party, and Contractor's duties and obligations hereunder shall continue as if this Agreement did not exist.

20. Notices

- (a) Except for routine communications in the course of performance of this Agreement, which may be transmitted in accordance with any procedures established by agreement or acquiescence of the parties, all notices given under the terms of this Agreement shall be in writing and delivered personally, or by fax, certified mail, or overnight courier. Notices transmitted by fax shall be deemed to be received as of the date and time of acknowledgment of receipt. Notices transmitted by certified mail or overnight courier shall be deemed received as of the date and time signed for by the recipient. Notices shall be addressed as follows:

<u>Carrier</u>	<u>Contractor</u>
CARRIER_NAME	Name: _____
CARRIER_ADDRESS	Address: _____
CARRIER_MUNICIPALITY	City, State: _____
Phone: CARRIER_PHONE	Phone: _____
Email: CARRIER_PHONE	Email: _____

Terms and Termination

This Agreement is effective as of the date hereof and shall continue in effect for a period of thirty (30) days from the date hereof. Thereafter, it will automatically renew for consecutive thirty (30) day periods unless earlier canceled as follows. This Agreement may be canceled, with or without cause, by either party at any time by written notice to the other. However, the Contractor may not terminate this Agreement until the Contractor has completed any unfinished trip the Contractor has undertaken at the time, unless authorized to do so by the Carrier.

Upon termination of this Agreement, final settlement will occur within forty-five (45) days after the Contractor fulfills the Contractor's obligations as set forth in subparagraph Terms: *Contractor Payments and Settlements* – (d) above. It is understood, however, that until the requirements of subparagraph Terms: *Contractor Payments and Settlements* – (d) are fulfilled, final settlement will be withheld, and the forty-five (45) day payment provision will not apply.

The parties have executed two copies of this Agreement effective as of the date first above written. The Carrier shall retain the original of this Agreement. One copy shall remain with the vehicle during the period of this Agreement, and the other copy shall be retained by the Contractor. When this Agreement covers more than one vehicle, the copies remaining with the vehicle may be photocopies if the original.

The Contractor represents and warrants that the Contractor has read this Agreement in full, is familiar with its terms and provisions, and that no representations have been made either to or by the Carrier, either directly or indirectly, that are not incorporated herein.

<u>Carrier</u>	<u>Contractor</u>
Company: CARRIER_NAME	Company: _____ (if applicable)
Name: _____	Name: _____
Date: _____	Date: _____
Signature: _____	Signature: _____