

# FREIGHT BROKER – CARRIER AGREEMENT

THIS AGREEMENT ("Agreement") is made and effective as of \_\_\_\_\_, 202\_\_ by and between C&K Brokerage Services, LLC, a Texas corporation, with its mailing address at 5000 Eldorado Pkwy Suite 150-208 Frisco, Texas 75033 (hereinafter "C&K"), and \_\_\_\_\_ dba \_\_\_\_\_ with its principal office at \_\_\_\_\_ (hereinafter "Carrier").

WHEREAS, Carrier provides transportation of cargo for shippers, owners, consignors, consignees, and receivers of general commodities, and performs these motor carrier transportation services in one or more of the following forms:

(i) as a motor contract carrier duly registered with the Federal Motor Carrier Safety Administration ("FMCSA") in Docket No. **MC-**\_\_\_\_\_.

(ii) as a motor carrier that solely transports cargo that is exempt from regulation by the FMCSA U.S. DOT# \_\_\_\_\_.

(iii) as a motor carrier transporting cargo in Intrastate, Interstate, Inter-Provincial/Territorial or Canada –U.S. Intra-Provincial/Territorial movements; and

WHEREAS, C&K is a motor carrier broker licensed to arrange for transportation of property by the Federal Highway Administration under License No. **MC-**\_\_\_\_\_ and arranges for transportation of commodities to be tendered Carrier; and

WHEREAS, C&K desires to arrange for the use of the services of Carrier to transport property for or on behalf of its customers, shippers, owners, consignors, consignees, and receivers of general commodities (hereinafter "Customer" or "Customers") and Carrier desires to provide transportation services to Customers;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Services.** C&K agrees to offer for shipment and Carrier agrees to transport by motor vehicle from and to such points between which service may be required, such cargo as C&K may tender, for the benefit of Customers, subject to the availability of suitable equipment. C&K may tender to Carrier shipments, for the benefit of Customers, on an as-needed basis. The relationship of Carrier to C&K shall, at all times, be that of independent contractor. The service provided by Carrier shall be designed to meet the distinct needs of C&K and Customers. Carrier shall provide and shall be solely responsible for the necessary equipment and personnel for completion of the transportation services required by C&K for the benefit of Customers. Carrier shall not sub-contract, broker, or tender the cargo to any third party.

## 2. **Cargo Liability.**

a. Carrier agrees to meet any promised pick-up and delivery schedule and deadlines regardless of whether established verbally or as set forth in Bills of Lading (as defined in section 5 hereof) or other shipping documents provided to Carrier at the time of cargo pick up ("Load Confirmation"). If Carrier does not possess, at the time of pick-up, the interstate or state registration of, operating authority required to transport the cargo to the required destination, Carrier shall not accept any cargo (or the corresponding Load Confirmation) and shall immediately inform C&K of Carrier's operating authority or registration deficiency. Carrier shall not accept any cargo if, in Carrier's discretion, pick-up and delivery schedules cannot be made in compliance with then-applicable hours-of-service regulations.

Carrier Representative Initial's \_\_\_\_\_

b. Carrier shall provide an acceptable means of receiving Load Confirmations, either through Fax, email or some other mutually agreed upon means of electronic communication (“Electronic Communication”), and those terms or directions in the verbal agreement or the Electronic Communication (including but not limited to shipping directions and rate of payment) shall control. Carrier agrees it shall be liable for the full, actual value (calculated as of the time the cargo left Customer's facility) of the cargo transported, and Carrier's liability for loss, damage, or delay of or injury to cargo shall be determined under the common carrier standards of liability.

c. All claims for loss, damage, or delay of or injury to cargo shall be processed and adjusted in accordance with Section 14706 of Title 49 of the United States Code, as the same may be amended or renumbered from time to time, unless stated otherwise in this Agreement. Carrier expressly waives all rights and remedies under Title 49 U.S.C., Subpart IV, Part B to the extent they conflict with this Agreement.

d. Carrier represents there is no limitation of liability or released rates applicable to any shipment made pursuant to this Agreement that would alter or change Carrier's liability for the full, actual value of the cargo transported, regardless of any limitation contained in the insurance policy to which such certificate of insurance applies or to which the insurance limits described herein apply.

e. If shipment of any cargo being transported under this Agreement is delayed or delivered in error, or any cargo being transported are damaged, destroyed, depleted, or rejected by Customer, Carrier shall be liable for such loss, damages, or expenses. In the event of delay, delivery error, damage, loss, depletion, or rejection by Customer, Carrier shall immediately contact C&K and shall take all reasonable actions necessary to protect the integrity, and otherwise preserve the remaining value, of the cargo. C&K shall, for the benefit of Customers, possess exclusive authority to make a final determination regarding the appropriate remedy for such delay, delivery error, damage, loss, depletion, or rejection, including, without limitation, the method for disposition or salvage of such cargo. If the cargo has been damaged, Carrier shall be responsible for identifying opportunities to salvage or otherwise dispose of such cargo, and shall have the responsibility to take all steps reasonably necessary to maximize the value received in such salvage or disposition. Carrier shall consult with C&K or Customer while making arrangements for the salvage or disposition, and shall not complete any salvage or disposition without first receiving written authorization from C&K or Customer. Title to such cargo shall remain with Customer until such authorization has been received and such salvage or disposition has occurred.

**3. Indemnification.** Carrier shall indemnify, defend, and hold C&K, Customer, and their respective officers, directors, and employees, harmless from and against any and all losses, harm, injuries, damages, claims, costs (including reasonable attorney fees), expenses, and liabilities arising from, or in connection with services provided by Carrier, its employees, agents, and contractors, or otherwise related to this Agreement. Carrier's obligations shall include, without limitation, liability for payment of any and all costs and fees incurred by C&K in the adjustment or defense of any claim for cargo loss or damage and claims for personal injury or death or property damage (including clean-up costs from commodity spills and damage to the environment) arising out of or in any way related to the provision of services under this Agreement. Carrier agrees that its obligation to defend, indemnify, and hold harmless C&K and Customers, and their respective officers, directors, and employees from and against any and all claims and liabilities resulting from or arising out of transportation operations and services under this Agreement shall survive the termination of this Agreement and shall not be limited by any limitation contained in the insurance policy to which such certificate of insurance applies or the insurance limits described herein.

**4. Insurance.**

a. Carrier agrees to maintain an “all risk” cargo insurance policy in the amount for each load at the greater of the value of the cargo in such load or for Twenty-Five Thousand Dollars (\$25,000) per load, and with a deductible of no greater than One Thousand Dollars (\$1,000) to provide coverage for loss, damage, or delay to cargo belonging to Customer. All exclusions or restrictions in the cargo insurance policy must be approved by C&K.

Carrier Representative Initial's \_\_\_\_\_

b. Carrier shall maintain an Automobile Liability Insurance policy with limits of not less than one million dollars (\$1,000,000.00) per occurrence, and shall provide C&K with a valid Certificate, updated as renewal occurs. A "scheduled auto" policy is not sufficient to meet this requirement.

c. Carrier shall maintain commercial general liability insurance, including contractual liability insurance, with a combined single limit of not less than one million dollars (\$1,000,000) for each occurrence for bodily injury and property damage, the limits of which may be met by a combination of this policy and umbrella or excess policy.

d. Carrier agrees to procure and maintain Worker's Compensation Insurance as required by law and any other insurance coverage required by any government body for the types of transportation and related services performed under this Agreement.

e. All insurance policies Carrier is required to maintain under this Agreement shall be with insurance companies rated A-VII or better by A.M. Best Company, all of which shall include waivers of subrogation in favor of C&K (and its employees, officers, managers, directors, agents, and affiliates). Insurance policies required hereunder shall not contain any exclusion (i) applicable to the type of cargo being transported by Carrier under this Agreement, or (ii) for bodily injury or death. Maintaining the prescribed insurance shall not relieve Carrier of any other obligations under this Agreement.

f. For each insurance policy required herein, Carrier shall cause the insurer under each such policy to name C&K as an additional insured by endorsement on or to such policy and to furnish to C&K a certificate of insurance ("Certificate") evidencing the inclusion of C&K as an additional insured on the policy. Each Certificate shall require the insurance carrier to provide C&K written notice at least thirty (30) days prior to the cancellation of or amendments to such insurance. Carrier agrees to immediately notify C&K of any changes in any insurance policy required under this Agreement, including coverage amounts thereunder.

5. **Bill of Lading.** Carrier shall, on each shipment, receive from Customer a Uniform Straight Bill of Lading ("Bill of Lading"), and the shipment shall move under the terms and conditions of such Bill of Lading. To the extent any of the terms of said Bill of Lading are inconsistent with the terms hereof, the terms of this Agreement shall prevail. Carrier (and any agent, contractor, or employee of Carrier), shall be solely responsible for collecting a written proof of delivery ("P.O.D.") from Customer upon delivery, and payment of Carrier's compensation by C&K is expressly conditioned upon the provision of such P.O.D. to C&K. Carrier warrants that it shall insure that the Bill of Lading properly names Carrier as the "carrier" on the load prior to signing it, and shall strike through and correct any erroneous designation of any other person as "carrier" (including C&K) on such Bill of Lading. In the event that a Bill of Lading issued in connection with cargo hauled under the terms of this Agreement names C&K as the "carrier" in contravention of this Section 6, Carrier agrees that Carrier shall be deemed to be the "carrier" on the Bill of Lading upon acceptance of a tendered load. Any terms and conditions written or printed on the Bill of Lading shall have no effect against C&K, unless specifically agreed to by C&K in this Agreement or in a separate, signed writing apart from the Bill of Lading. The Bill of Lading issued or executed by Carrier shall be prima facie evidence of receipt of the shipment by Carrier in good order and condition unless otherwise noted on the face of said document. Carrier shall submit a copy of the Bill of Lading to C&K evidencing delivery of the shipment unless otherwise instructed by C&K, in which case Carrier shall retain custody of the Bill of Lading or P.O.D. and provide it to C&K upon request. If Carrier fails to maintain and provide the Bill of Lading, Carrier shall assume, and indemnify C&K from, all risk of loss resulting from the failure to prove good delivery.

6. **Rates and Charges.** Compensation shall be paid to Carrier solely and exclusively by C&K, and not by Customer, on all shipments tendered to Carrier under this Agreement. Carrier shall be compensated by C&K based on the following:

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a. Carrier and C&K may orally agree upon the rate or compensation to be paid to Carrier for, and the terms and conditions applicable to, any shipment tendered by C&K under this Agreement. C&K shall subsequently confirm the oral agreement by issuing a confirmation to Carrier in written or electronic format

("the Confirmation") that sets forth the rates, terms, and conditions agreed upon. Unless Carrier objects to the contents of the Confirmation prior to the earlier of (i) pick-up of the cargo by Carrier, or (ii) within twenty-four (24) hours of receipt of the Confirmation, Carrier shall be deemed to have assented to the Confirmation, which shall be binding upon Carrier. Each Confirmation shall be incorporated into and considered to be a part of this Agreement. C&K agrees to pay Carrier for the transportation of authorized cargo under this Agreement within seven (7) days after the receipt by C&K of Carrier's invoice covering such shipment, the Bill of Lading, the P.O.D., and all other documents related to the shipment. Carrier agrees that it shall seek payment of all freight invoices exclusively from C&K, and Carrier agrees that, under no circumstances shall Carrier seek payment from any Customer.

b. C&K may, in its sole discretion, withhold or offset amounts owed to Carrier arising out of this Agreement or any other agreement with Carrier to satisfy advances made by C&K to, or on behalf of Carrier, or to satisfy any debt or obligation owed by Carrier to C&K (the "Offset Right"). C&K's Offset Right shall arise immediately upon the creation of any debt or obligation owed by Carrier to C&K (whether arising from damage to cargo, delay in shipment, reduction in the volume or value of the cargo while in possession of Carrier, or otherwise). C&K's Offset Right shall not limit any other remedy it may have to recover amounts owed by Carrier under this Agreement.

c. C&K and Carrier agree that C&K is the sole party responsible for payment of amounts owed to Carrier hereunder, and the exercise of the Offset Right by C&K shall not allow or permit Carrier to seek payment from Customers, or any other third party. Carrier agrees that it shall not, under any circumstances, claim, demand, or pursue payment from Customers for transportation services provided hereunder.

**7. Liability of C&K.** C&K shall be liable to Carrier for freight charges and all other applicable charges agreed to and contained in the Confirmation, except that if C&K stipulates, either in writing or verbally followed by a written confirmation sent to Carrier from C&K either by mail, Fax, email, or other electronic means, that Carrier shall not make delivery without obtaining payment of charges by the designated payor and Carrier makes delivery without obtaining payment, then C&K shall not be liable for freight charges and other applicable charges owing to Carrier contained in the Confirmation.

**8. Carrier Representations.** Carrier represents that it is fit, willing, and able to provide the services contemplated by this Agreement. Carrier further represents and warrants that it is presently in compliance and shall, at all times during the term of this Agreement, remain in compliance, with all applicable laws and ordinances of all applicable governmental entities (federal, state, and local) having jurisdiction over any of its operations or the services to be provided under this Agreement.

Carrier represents and warrants that it will remain in compliance with all hours-of-service regulations at all times and that it is solely responsible for compliance with such regulations. Carrier represents and warrants that its insurance policies do not have any exclusion that apply to the cargo being transported pursuant to this Agreement, and that such policies do not exclude coverage for bodily injury or death.

Carrier, at its cost and expense, shall provide motor vehicles and equipment for use in the services to be performed hereunder that are adequate and satisfactory to C&K. Carrier shall maintain such vehicles and equipment in good and roadworthy condition, both as to operation and appearance.

Carrier represents that all vehicles and equipment used in connection with the services to be performed hereunder meet, and Carrier will maintain such vehicles and equipment in a manner that complies with, all applicable operating condition and safety equipment requirements of the Department of Transportation ("DOT"). Carrier, at its own cost and expense, shall employ in the operation of such vehicles and equipment, fully qualified personnel, and shall prevent the operation of any such vehicles or equipment by unqualified personnel.

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Carrier further represents and warrants that it shall at all times maintain a United States DOT safety rating that is "satisfactory" or equivalent thereto, (subject to C&K's policies as amended from time to time). Carrier represents and warrants that it will promptly notify C&K if Carrier is assessed a "conditional", or "unsatisfactory" safety rating, or if any equipment is known to be or reported as defective or not in compliance with any applicable Federal or State statute or regulation pertaining to vehicle or highway safety. Carrier represents that under the

Federal Motor Carrier Safety Administration's ("FMCSA's") Safety Measurement System ("SMS"), Carrier does not have (i) a rating percentile within any BASICs (both public and non-public) (collectively, the "BASIC Scores") exceeding the applicable intervention threshold, and (ii) has not received a citation for a serious violation during any FMCSA investigation (the failure of either constituting "BASIC Event"). Carrier agrees to monitor the SMS daily and shall immediately cease accepting all loads arranged by C&K upon the existence of any BASIC Event. Carrier promptly, but not later than one business day thereafter, shall notify C&K of any change in Carrier's Safety Rating, or the occurrence of any BASIC Event. C&K shall have the right to immediately terminate this Agreement upon written notice to Carrier if Carrier fails to maintain a "satisfactory" or equivalent safety rating or upon the occurrence of one or more BASIC Events.

Carrier further agrees that it shall follow all rules, regulations, and guidelines set forth by Federal, State, or local regulatory authorities, including those of the DOT, as well as guidelines designed by C&K or Customer for loads that require specific actions to insure compliance with legal and environmental requirements. Upon the failure of Carrier to acknowledge and follow such rules, regulations, and guidelines set forth by any Federal, State, or local regulatory authority (including DOT or the Food and Drug Administration), or any guidelines provided by C&K, C&K shall be entitled to terminate this Agreement.

**9. Independent Contractor.** Nothing in this Agreement is intended, nor shall any provision of this Agreement be construed, to constitute either party as a partner, joint venturer, agent, or representative of the other. Carrier shall be an independent contractor retaining complete control over and complete responsibility for its own operations, equipment, and employees. Carrier shall exercise exclusive control, supervision, and direction over (1) the manner in which transportation services are provided, (2) the persons engaged in providing transportation services, and (3) the equipment selected and used to provide transportation. C&K may relay routing information from Customer to Carrier; however, this information and any other information provided by C&K is for informational purposes only and Carrier retains exclusive discretion over the manner in which the transportation services are performed, and the routes chosen while performing such services. Carrier assumes full responsibility for the payment of local, state, and federal payroll taxes or contributions or taxes for unemployment insurance, retirement pensions, workers' compensation, or social security and Medicare payments with respect to the persons engaged in the performance of such transportation services and agrees to comply with all applicable rules and regulations promulgated under such laws. Nothing in this Agreement shall be construed to grant either party any right or authority to assume or create any obligation on behalf, or in the name of the other, to accept summons or legal process for the other, or to bind the other in any manner whatsoever.

**10. Prohibition on Assignment of Freight.** Carrier specifically agrees that it shall be the party solely responsible for operating the equipment necessary to transport commodities under this Agreement and that it shall not, in any manner, sub-contract, broker, or tender to any third party for transportation any cargo tendered to Carrier pursuant to this Agreement. In the event that Carrier shall employ any subcontractor or other person for the performance of all or any portion of the services required hereunder to be performed by Carrier, Carrier shall be, and shall remain, liable to C&K under the terms of this Agreement, including, without limitation, liability for loss, damage, or delay of any shipments, regardless of whether such loss, damage, or delay occurred while such shipment was in the possession of Carrier or such subcontractor or other person. Carrier shall be solely and exclusively responsible to pay any charges of any subcontractor or other person and agrees to indemnify and defend C&K and Customers from and against any claims made by any such subcontractor or other person in connection with its provision of services required to be performed by Carrier hereunder. The prohibition against subcontracting does not apply to an owner-operator leased to Carrier pursuant to the provisions of 49 C.F.R. Part 376.

Carrier Representative Initial's \_\_\_\_\_

**11. Non-Exclusive Agreement.** It is understood and agreed between the parties hereto that this is a non-exclusive agreement, and Carrier shall be free to accept freight for transportation from other shippers and brokers, and C&K shall be free to tender freight for transportation to carriers other than Carrier.

12. **Arbitration.** At C&K's sole discretion, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, shall be settled exclusively by binding arbitration by a single arbitrator in accordance with the rules of the ADR Council, Inc., and judgment upon the award rendered may be entered in a court having jurisdiction. The arbitrator shall have no authority to award punitive or exemplary damages. Such arbitration shall be conducted in Dallas-Fort Worth, Texas area.

13. **Term and Termination.** This Agreement shall become effective on the date first above written, and shall remain in effect until cancelled by either party upon thirty (30) days' prior written notice, except as otherwise provided herein. C&K and Carrier shall have no obligations under this Agreement after the effective date of termination, except for any liability under this Agreement that accrues prior to termination or that expressly survives termination or expiration of this Agreement.

14. **Non-Solicitation.** Carrier shall not solicit traffic from any Customer of C&K where (i) the availability of such traffic first became known to Carrier as a result of working with C&K, or (ii) the traffic of Customer was hauled by Carrier through C&K. If Carrier breaches this Agreement and "back solicits" Customer and obtains traffic from such Customer, C&K shall then be entitled, for a period of twelve (12) months after such traffic first begins to move as a result of such back solicitation, to a commission from Carrier equal to fifteen percent (15%) of the transportation revenue received by Carrier on the movement of such traffic. This paragraph is not intended to affect any traffic arrangements between Carrier and others that predate this Agreement. This Section 15 shall survive the termination of this Agreement for a period of one year.

15. **Waiver of Carrier's Lien.** Carrier shall not withhold any cargo of a Customer because of any dispute as to rates or any alleged failure of C&K to pay charges incurred under this Agreement. Carrier hereby waives and releases all liens that Carrier might otherwise have to any cargo of Customers in the possession or control of Carrier.

16. **Scope of Agreement.** This Agreement shall govern any and all shipments arranged by C&K and tendered to Carrier by Customers, and accepted by Carrier, whether regulated or nonregulated property, in interstate or intrastate transportation. Any rates, charges, classifications, or rules in tariffs filed or published by Carrier shall not apply to any such shipment unless they are specifically identified and incorporated herein.

As permitted by Title 49 Section 14101(b) of the United States Code, as the same may be amended and renumbered from time to time, the parties expressly waive any and all rights or remedies they may have in connection with claiming a rate, charge, or fee that is different from the rate, charge, or fee established in or pursuant to this Agreement.

17. **Force Majeure.** Neither C&K nor Carrier shall be liable for any delay in the performance of its respective obligations under this Agreement resulting from force majeure, including, but not limited to, acts of God, acts of government or other civil or military authorities, and acts of terror, war, or riots. Whenever possible, in the event of force majeure, the affected party shall promptly notify the other party in writing, stating the reasons for the inability to comply with the provisions of this Agreement, and the expected duration of force majeure.

Carrier Representative Initial's \_\_\_\_\_

18. **Confidentiality.** Except to the extent required by law, Carrier shall not disclose to any third party either the terms of this Agreement or any confidential or proprietary information Carrier may learn about C&K in the course of performing services under this Agreement, including but not limited to software, business methods, Customer lists, or the rates, charges, cargo valuation, origin, destination, or Customer identity for any shipment within the scope of this Agreement.

19. **Notices.** For purposes of this Agreement any notice required to be given shall be deemed sufficiently given or served if sent by United States Certified Mail, Return Receipt Requested (unless otherwise specified herein), to the parties at the following addresses or by confirmed fax to the following fax numbers.

To C&K:

C&K Brokerage Services, LLC  
5000 Eldorado Pkwy Suite 150-208  
Frisco, Texas 75033  
Email: [cktrucking1@outlook.com](mailto:cktrucking1@outlook.com)

To Carrier:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

C&K and Carrier shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice to the other party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date and year first written above.

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE THAT MAY BE ENFORCED BY C&K.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
**MC #** \_\_\_\_\_

C&K Brokerage Services, LLC  
5000 Eldorado Pkwy Suite 150-208  
Frisco, Texas 75033  
**MC #930929-B**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_