

# quantum

**FREIGHT**

## CONTRACT CARRIER/BROKER AGREEMENT

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This contract made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, hereinafter referred to as "CARRIER" and QUANTUM FREIGHT LLC located at 1605 Military Highway, Brownsville, TX 78520, hereinafter referred to as "BROKER."

#### WITNESSETH:

CARRIER is a motor contract carrier of property authorized by Permit No. MC-\_\_\_\_\_ (a copy of such permit is attached hereto and made a part hereof) to provide transportation of property under contract with shippers and receivers of general commodities, and BROKER is a motor carrier broker, licensed to arrange for the transportation of property by License No. MC- 890000-B (a copy of such license is attached hereto and made a part hereof), and controls the transportation of commodities to be tendered to CARRIER.

NOW THEREFORE, in consideration of the representations made herein, the parties agree as follows:

#### I. SPECIFIC OBLIGATION OF CARRIER

##### LIABILITY OF CARRIER

The CARRIER shall issue a bill of lading for property it receives for transportation under this contract and shall be liable to the person entitled to recovery under the bill of lading. The liability imposed by this paragraph is for the actual loss or injury to the property caused by the CARRIER. Failure to issue a bill of lading does not affect the liability of the CARRIER. The CARRIER's liability shall be the same as a CARRIER's liability under 49 U.S.C. 11707.

CARRIER agrees to maintain minimum cargo insurance in the amount of \$100,000.00 to compensate those parties entitled to recover under the preceding paragraph. CARRIER shall cause its insurance carrier to forward forthwith 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 cargo insurance. The cargo insurance shall have no exclusion or restrictions that would not be accepted by the Interstate Commerce Commission for a filing.

CARRIER's liability shall begin at the time cargo is loaded upon CARRIER's equipment at point of origin, and continue until said cargo is delivered to the designated consignee at destination, or to intermediate stopoff party. CARRIER agrees to defend and hold harmless BROKER against any and all loss or damage claims on each shipment transported by CARRIER pursuant to this Agreement.

CARRIER further agrees to defend and hold harmless BROKER from any and all liability, costs and damages to persons and/or property arising out of CARRIER's operations hereunder, including but not limited to all road, fuel and other taxes, fees or permits, related to the shipments transported by CARRIER as arranged by BROKER.

#### II. SPECIFIC OBLIGATION OF BROKER

BROKER agrees to pay CARRIER for the transportation of the commodities moved under this agreement in accordance with the rate set forth herein or Addendum thereto, within 30 days of the receipt of BROKER of CARRIER's invoice, and signed delivery receipt, and original addendum covering such transportation.

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BROKER agrees to pay CARRIER for the transportation of freight moved under this agreement in accordance with the rates agreed per each load, under the rate confirmation or pick up request. Modifications or additions to these rates may be agreed to in writing or made verbally to meet specific shipping schedules. Confirmation of verbally agreed rates will be made by a recap faxed or emailed by BROKER to CARRIER and by the CARRIER's pick up of the shipment.

Additional rates or modifications of the above rate may be established or amended verbally in order to meet specific shipping schedules, as mutually agreed, but such changes shall be sent by the party initiating the change, by facsimile machine, the proposed change with the initialed approval. The carrier must initial the copy of the change and return via facsimile, prior to loading the shipment. The carrier shall include the original signed copy with their invoice to the broker at the time of billing.

Changes to the original load assignment will be initialed and sent via facsimile machine or email by BROKER to CARRIER, and initialed and returned via facsimile machine or email by CARRIER to BROKER. Original initialed copy will also be sent to BROKER by CARRIER at time of billing.

CARRIER authorizes BROKER to invoice shipper, receiver, consignor or consignee for freight charges as agent for and on behalf of CARRIER. Payment of these freight charges to BROKER shall relieve shipper, receiver, consignor or consignee of any liability to the CARRIER for non-payment of charges.

**IV. BILLS OF LADING**

The bill of lading shall note that the shipments were transported by CARRIER, acting as a carrier, and that the shipment was arranged by BROKER, acting as broker. The name of the underlying shipper shall be inserted in the blank for the shipper, and the name of the consignee shall be inserted in a blank for the consignee.

When BROKER has assembled multiple shipments into carload or truckload lots, the list of underlying shippers will be attached as an Appendix to the bill of lading.

**V. COMPLIANCE WITH 49 U.S.C. 10102**

Both parties recognize that motor contract carrier service is based on the CARRIER, either (1) assigning motor vehicles for a continuing period of the time for the exclusive use of a shipper; or (2) providing a service designed to meet the distinct needs of a shipper. This Agreement does not contemplate the assignment of motor vehicles under continuing agreements, but the contract arrangement has been designed to meet the distinct needs of the BROKER.

The BROKER needs the CARRIER to assume full liability for the actual loss of or injury to the property tendered to the CARRIER to negate a possibility of the CARRIER moving these goods on released rates with the limitation liability, and Paragraph 1, specifically imposes this obligation upon the CARRIER that claims shall be settled in accordance with 49 C.F.R. 1005, and this is also designed to meet the distinct needs of the BROKER. Further, the BROKER needs a single forum for the settlement of disputes, and Paragraph VI.(b) meets this distinct need of the BROKER.

**VI. PROVISIONS AS TO THE SETTLEMENT OF CARGO CLAIMS AND OTHER DISPUTES.**

(a) Cargo claims shall be settled in accordance with the regulations codified at 49 C.F.R. 1005.

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- (b) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, irrespective of the fact that one or more of the parties now is or may become a resident of a different state.
- (c) Disputes. (Jurisdiction and Venue) Any lawsuit to interpret or enforce this Agreement shall be brought and maintained until concluded by settlement, judgment, verdict, appeal, or otherwise in the Circuit Court of Cameron County, Texas, at Brownsville, Texas.

**VII. INDEPENDENT CONTRACTOR**

The relationship of the BROKER and the CARRIER shall, at all times be that of an independent contractor, except that the BROKER shall be an agent for the CARRIER for the collection of charges, when the shipper pays the BROKER.

**VIII. NO SOLICITATION**

CARRIER (OR ANY OTHER COMPANY AFFILIATED, OR OWNED BY ITS SHAREHOLDERS, EMPLOYEES OR OWNERS OR RELATED TO THEM) shall not solicit traffic from any shipper, consignor, consignee or customer of BROKER where (1) the availability of such traffic first became known to CARRIER as a result of BROKER's efforts, or (2) where the traffic of the shipper, consignor, consignee or customer of the BROKER was first tendered to the CARRIER by the BROKER. If CARRIER breaches this Agreement and "back solicits" the BROKER's customers, and obtains traffic from such a customer, the BROKER then is entitled, for a period of 15 months after the involved traffic first begins to move, to a commission for the CARRIER of 80% of the transportation revenue received on the movement of the traffic.

**IX. ACTS OF GOD**

Broker will not be liable for the failure to tender to timely transport freight under this Agreement if such failure, delay or other omission is caused by strikes, acts of God, war, accidents, civil disorder, or through compliance with legally constituted order of civil or military authorities.

**X. MISCELLANEOUS**

This Agreement shall be governed by Title 49 of the United States Code and Title 49 of the code of Federal Regulations.

This Agreement is to become effective on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and shall remain in effect for a period of one year from such date, and from year to year thereafter, subject to the right of either party hereto and cancel or terminate the Agreement at any time upon not less than thirty (30) days written notice of one party to the other.

IN WITNESS WHEREOF,

The parties have set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CARRIER: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Title: \_\_\_\_\_

BROKER: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Title: \_\_\_\_\_