



## Broker Carrier Agreement

This agreement is made and entered into effect this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Engel Transport LLC ("Broker") a Registered Property Broker, Lic. No. MC-1182007, and \_\_\_\_\_ a Registered Motor Carrier, Permit/Certificate No./DOT \_\_\_\_\_ ("Carrier"); collectively, the "Parties" ("Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration (or its predecessors) within the U.S. Department of Transportation.).

1. BROKER is an agent authorized by its customers to negotiate and arrange for the transportation of their shipments in interstate commerce.

2. INDEPENDENT CONTRACTOR. It is understood and agreed that the relationship between BROKER and CARRIER is that of an independent contractor. Carrier shall provide transportation services to meet the distinct needs of Engel Transport LLC and its customers. None of the terms in this Agreement, or any act of omission of either Party shall be construed for any purpose to express or imply a partnership, principal or agent, joint venture, fiduciary or employee. Carrier shall not be considered under the provisions of this agreement, or otherwise, having employment status with Engel Transport LLC or as being entitled to partake in any plans, distributions or reports concerning its business, income, or employees required by any social security under the Income Tax Act, Workers' Compensation Act, Business or License



Tax Act, or other similar revenues or regulatory acts, whether federal, state, or local and particularly, Engel Transport LLC assumes no responsibility for making any payments required under the terms of such acts.

3. CARRIER represents and warrants that it is a lawfully licensed operator with required insurance, and motor carrier authority under the Federal Highway Administration and shall provide service under its own certificate(s) or permit(s), or appropriate permits governing intrastate transportation when applicable. Carrier shall at its own expense, pay any and all license or permit fees, highway use taxes, fuel, mileage, and revenue taxes, in connection with transportation services performed by carrier under this agreement.

4. CARRIER agrees to furnish suitable equipment properly maintained and operated in compliance with local, state, and federal regulations and shall have sole and exclusive control over the manner and method of operation.

Carrier Initials \_\_\_\_\_



5. CARRIER will be responsible for the procuring and operation of the vehicles it uses and the employment, training, supervision and control of the drivers and any helpers. Carrier will notify Broker by telephone of any accident, theft, or other occurrence that impairs the safety of or delays the delivery of Broker's customers' goods. Carrier further warrants that it holds and shall maintain during the term of this Agreement, at minimum, a "Satisfactory" safety rating, or a substantially equivalent rating under the Carrier Safety Management System, implemented under the FMCSA Compliance, Safety, Accountability (CSA) program, with respect to the carrier's operations in the United States. Carrier agrees to notify Broker immediately if the safety rating changes, or if it is found by any governing authority to have violated any law or regulation related to safety insurance coverage.

6. CARRIER shall procure and provide to Broker insurance certificates upon request, naming Engel Transport LLC as certificate holder, and maintain in force continuously throughout the term of this contract. Carrier warrants to Broker that it meets the following criteria: (a) Carrier shall maintain commercial cargo insurance, insuring against liability to persons, including injuries resulting in death, environmental restoration and loss or destruction of or physical damage to property, including any vehicle or equipment furnished by the shipper for and in connection with the transportation services the Carrier renders, in a combined single limit of not less than (\$100,000.00) per shipment; (b) Carrier shall maintain public liability insurance insuring Carrier against liability loss or damage to commodities while in the custody, possession or control of Carrier in an amount not less than (\$1,000,000.00) per shipment which policy shall not contain any exclusions for negligent acts, fraud, dishonesty, or criminal acts of Carrier's employees, agents, contractors,



officers, or directors as required by federal regulation. Carrier shall maintain workers compensation insurance as required by law.

7. CARRIER agrees to transport shipments tendered by Broker at the rates and charges as set forth in Broker's "Load Confirmation Agreement". Carrier and Broker agree that any tariffs rates, accessorial charges, rules and regulations established and/or published by the carrier shall not apply to any shipment tendered under this Agreement unless specifically agreed to by Carrier and Broker, in writing.

Carrier Initial \_\_\_\_\_



8. BROKER agrees to pay Carrier for transportation of shipments under this Agreement in accordance with the rates described herein. Carrier agrees to invoice Broker, and acknowledges that the Broker is the sole party responsible for payment of its invoice. Under no circumstances, shall Carrier seek payment from Broker's customers, the consignor, any consignee, or any entity other than Broker. Payment of freight charges by Broker to carrier shall relieve shipper, receiver, consignor, or consignee of any liability to the Carrier for non-payment of charges.

9. CARRIER shall be liable to Broker and Broker's customers, for actual loss of, damage to, or delay of Broker's customers' freight, while under the Carrier's care, custody or control according to the provisions of 49 U.S.C. Section 14706. Carrier shall be responsible for the full invoice price charged by Broker's customer for the kind and quantity of product lost, damaged or destroyed. Broker reserves the right to withhold payment to Carrier for the shipment in question until cargo shortage, loss, damage, or delay issue is resolved with Broker's customer. Broker reserve the right to deduct an amount equal to the shortage, loss, damage, spoilage, or delay claim resulting from negligence or alleged negligence on the part of the Carrier, its agents, servants, or employees. Broker shall provide Carrier a written explanation and itemization of all deductions computed at the time deductions are made. Further, compensation paid under this Agreement may be withheld, in whole or in part, by Broker to satisfy any obligation paid by the Broker which is the financial responsibility of Carrier.



10. Carrier shall immediately notify Broker of any cargo damage, shortage, loss or delay. Failure to comply with this notice provision shall void any limitation of liability and cause carrier to be responsible for full liability of any damages or shortages of a shipment at the total cost without regard to Broker's customers ability to mitigate damages. Carrier agrees that the provisions contained in 49 CFR Part 370.1-11, shall govern the processing of claims for loss or damage, and the processing of salvage.

11. CARRIER shall waive any and all rights of salvage or resale of any of customer's damaged goods and shall, at Broker's reasonable request and direction, promptly return or dispose any and all of customers damaged and overage goods shipped by Carrier under a Transportation Schedule. Carrier shall not under any circumstance allow customer's goods to be sold or made available for sale or otherwise disposed of in any salvage markets, employee stores, or any other secondary outlets.

Carrier Initial \_\_\_\_\_



12. CARRIER shall, indemnify and hold harmless, Broker and Broker's customers their respective officers, directors, employees, agents, representatives, vendors and customers against any and all claims, demand, actions, causes of action and/or liabilities judgements, fines, penalties from any claims or loss resulting out of any act of omission of Carrier, its employees, agents and servants in the performance of this Agreement or the services provided herein.

13. In the event the Broker's name is inserted in a bill of lading or any other shipping documentation, such insertion shall not change Broker's status as a Freight Broker or Carrier's status as a motor carrier. Each shipment will be evidenced by a written form initiated by the consignor at the point of origin of the shipment in a form acceptable to Broker, and will be legibly signed by the Carrier showing the type and quantity of the commodity received at loading point(s) specified. Such form will be evidence of receipt of such commodities by Carrier in apparent good order and condition or as may be otherwise noted on the face of such form. Any unauthorized alteration or use of bills of lading or other shipping documents not acceptable to Broker shall void the Broker's and its customers' obligation to make any payments to the Carrier. Upon acceptance of the shipment, Carrier shall assume liability for the cargo until proper delivery is made to the consignee. Carrier will obtain a delivery receipt signed by the consignee at the time of delivery showing the kind, quantity and condition of the commodity delivered at the specified destination and the time of delivery. Absence or loss of any such documents conflict in any way with the term or provision of this Agreement, the terms and provisions of this Agreement will take precedence and control.



14. CARRIER or Carrier's employee, Officer, director agent or otherwise of Carrier, agrees to not solicit any customer of Broker, either directly or indirectly during the term of this Agreement and for a period of one year (1 year) from the termination of this Agreement. In the event Carrier violates the terms in this Agreement As liquidated damages, Carrier agrees to pay back ten percent (10%) commission on all traffic from such customer.

15. On behalf of shipper, consignee and Broker's interest, to the extent that any shipments subject to this Agreement are transported within the State of California on refrigerated equipment. Carrier warrants that it shall only utilize equipment which is in full compliance with the California Air Resources Board (CARB) Transport Refrigeration Unit (TRU) Airborne Toxic Control Measure (ATCM) in-use regulations. Carrier shall be liable to Broker for any penalties, or any other liability, imposed on, or assumed by Broker due to penalties imposed on Broker's customer because of Carrier's use of non-compliant equipment.

Carrier Initial \_\_\_\_\_





16. The term of this Agreement shall be for a period of one (1) year from Effective Date set forth above and shall automatically renew for additional one (1) year periods, unless terminated. Either party may terminate this Agreement upon fifteen (15) days written notice.

17. Any and all disputes arising under this Agreement shall be resolved by Courts, either Federal or State as applicable, in the State of Georgia, and Carrier ascends to jurisdiction and venue in the State Court of Coweta County, Georgia. The laws of Georgia shall govern the terms of this Agreement. Any conflict between the terms hereof and (a) the bill of lading on which a shipment moved (b) Federal statute to the extent subject to waiver, and (c) Federal regulations shall be resolved in favor of and pursuant to the terms of this Agreement.

BROKER: \_\_\_\_\_

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

Its: \_\_\_\_\_

CARRIER: \_\_\_\_\_

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

Its: \_\_\_\_\_

Carrier Initial \_\_\_\_\_