

GENERAL TERMS AND EXERTS OF AGREEMENT BETWEEN BROKER AND SHIPPER

THIS AGREEMENT FOR TRANSPORTATION BROKERAGE SERVICES (this "Agreement") is made and entered into on this ____ day of _____, 20__, by and between REDHOT EXPRESS, INC. (d/b/a REDHOT LOGISTICS), with a business address of 6004 West 145th Terrace, Overland Park, Kansas 66223, ("Broker") and _____, a _____, with a business address of _____ ("Shipper").

RECITALS

A. WHEREAS, Broker is actively engaged in arranging for the transportation of general commodities (except household goods) in interstate commerce by authorized motor carriers and Broker is authorized to perform such brokerage services by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, US Docket No. ___MC - 535999_____; and

B. WHEREAS, Shipper desires that Broker arrange for the transportation of certain general commodities (except household goods) by authorized motor carriers ("Carrier") on various shipments on a continuing basis during the term of this Agreement; and

C. WHEREAS, Broker and Shipper desire to enter into this Agreement for the purposes of setting forth their respective responsibilities and obligations in connection with Broker providing Shipper certain transportation brokerage services on a continuing basis during the term of this Agreement.

BROKERAGE SERVICES

1.1 Upon the execution of a Shipment Release Form or a Bill of Lading by Broker and Shipper. Broker shall arrange for the transportation of the freight described in the Shipment Release Form ("Shipment") by an authorized motor carrier in accordance with the terms and conditions set forth in this Agreement. Broker's responsibility for any Shipment pursuant to a Shipment Release Form shall be limited to arranging for, but not actually performing transportation of Shipper's Shipment.

1.2 Shipper agrees to tender a minimum of twelve (12) Shipments per year to Broker, and Broker agrees to arrange for the transportation of those Shipments, as well as any other shipments reflected in a Shipment Release Form accepted by Broker. Shipper is not restricted from tendering freight to other brokers or directly to motor carriers. Broker is not restricted from arranging transportation for other persons or entities.

1.3 Broker agrees to enter into bilateral contracts with each Carrier it utilizes in the performance of Shipments hereunder that include the following provisions:

- (a) Carrier shall agree to defend, indemnify and hold Broker and Shipper harmless from all damages, claims or losses arising out of performance of any Shipment, including, but not limited to cargo loss and damage, delay, damage to property and personal injury or death;
- (b) Carrier shall agree that its liability for cargo loss or damage shall be no less than that of a common carrier as provided for in 49 U.S.C. § 14706. Any exclusions in Carrier's insurance policies shall not relieve or exonerate Carrier from such liability for cargo loss or damages;
- (c) Carrier shall agree to maintain at all times during the term of this Agreement insurance coverage required by any applicable federal, state or local laws, statutes, ordinances and regulations ("Laws");
- (d) Carrier shall agree that the provisions contained in 49 C.F.R. § 370.1 *et seq.* shall govern the processing of claims for loss, damage, injury or delay to any Shipment and the processing of salvage;
- (e) Carrier shall agree that Broker shall provide an invoice to Shipper for transportation services provided by Carrier. Carrier shall further agree that Broker is the sole party responsible for payment of its invoices and under no circumstances shall Carrier seek payment directly from Shipper, consignee or Broker's customers;
- (f) Carrier shall agree that the terms and conditions of its contract with Broker shall apply to all Shipments. To the extent any term or condition in any tariff referenced in the Carrier contract conflicts with or is inconsistent with the terms and conditions contained in this Agreement, the terms and conditions contained in this Agreement shall control and be governing;
- (g) Carrier shall expressly waive all rights and remedies under 49 U.S.C. Subtitle IV, Part B to the extent such provisions conflict with this Agreement; and
- (h) Carrier shall agree to maintain all licenses, approvals, consents, operating authorizations, and similar items necessary for Carrier to operate as a common carrier in interstate commerce during the term of this Agreement.

1.4 If requested by Shipper, Broker agrees to provide Shipper with proof of acceptance and delivery of Shipments in the form of a signed bill of lading or proof of delivery, as specified by Shipper. Shipper's insertion of Broker's name on the bill of lading shall be for Shipper's convenience only and shall not change Broker's status as a property broker. The terms and conditions of any freight Shipment documentation used by Broker or carrier selected by Broker may not supplement, alter, or modify the terms of this Agreement.

LOADING AND UNLOADING

1.5 Unless otherwise provided in the Shipment Release Form, Shipper shall be responsible to load, block, brace and secure the Shipment to prevent the shifting of the Shipment during transportation and to comply with all applicable Laws, including but not limited to weight limitations. Unless otherwise provided in the Shipment Release Form, Shipper shall be responsible to unload the Shipment in a safe and timely manner.

1.6 Shipper and Broker shall comply with all applicable Laws relating to the transportation of hazardous materials as defined in 49 C.F.R. § 172.800 and §173 *et seq.* to the extent that any Shipments constitute hazardous materials. Shipper is obligated to inform Broker immediately if any such Shipments do constitute hazardous materials. Shipper shall defend, indemnify and hold Broker harmless from any penalties or liability of any kind, including reasonable attorney fees, arising out of Shippers failure to comply with applicable hazardous materials Laws.

CHARGES AND PAYMENT

1.7 Shipper shall pay Broker the Shipment Charge set forth in each Shipment Release Form plus all other applicable accessorial charges set forth herein. Shipper shall pay Broker all amounts due under each Shipment Release Form within fifteen (15) days from the date of Broker's invoice to Shipper, without deduction or offset. Each invoice may be accompanied by proof of acceptance and delivery of the Shipment in the form of a bill of lading or a signed and dated receipt showing delivery to the consignee.

1.8 Payments due Broker hereunder which are not paid when due shall bear interest at the rate of one and one-half percent (1.5%) per month until paid. Upon receipt of each payment from Shipper, Broker shall promptly pay the applicable Carrier the portion of such payment due Carrier from Broker under the terms of the contract between Carrier and Broker.

INSURANCE

1.9 Broker shall contractually require each Carrier to secure and maintain the following insurance coverages:

- (a) Worker's Compensation Insurance with broad form all states endorsement covering all employees and independent contractors for statutory limits in accordance with the Laws of the states in which the Carrier will be providing transportation services;
- (b) Commercial Automobile Liability Insurance (covering any vehicle including owned, hired and non-owned vehicles and trailers), including contractual liability coverage, covering claims for bodily injury, including death, and property damage arising out of Carrier's performance of the transportation services hereunder, with a combined single limit of One Million Dollars (\$1,000,000.00) per occurrence.
- (c) Commercial General Liability Insurance, written on an occurrence basis, including contractual liability coverage, covering claims for bodily injury and property damage (other than to the cargo) that arise out of Carrier's (including independent contractors') performance of the transportation service regardless of when such claims are filed, with a combined single limit of One Million Dollars (\$1,000,000.00) per occurrence.
- (d) Cargo Insurance of One Hundred Thousand (\$100,000.00) or in an amount equal to that which is required by Law. Such cargo insurance shall name Shipper as loss payee with respect to claims of loss by Shipper.

1.10 The Carrier may self-insure liability pursuant to the authorization by/and requirements of the Department of Transportation under 49 C.F.R. §387, provided that Carrier furnishes Broker and Shipper with evidence of compliance therewith and such self-insurance satisfies all requirements under all Laws, including 49 C.F.R. §387.

TIME

1.11 Broker shall contractually require Carrier to deliver the Shipment by the date set forth in the Load Agreement Form.

1.12 If Carrier is delayed in the performance of its obligations and responsibilities for a Shipment by acts of God, civil disobedience, civil unrest, riots, wars, acts of terrorism, flooding, labor disputes, fires, accidents not the fault of Carrier, or other causes beyond Carrier's reasonable control, the delivery dates shall be extended by the period caused by such delay.

1.13 In the event Carrier fails to deliver a Shipment as required herein, Shipper agrees to solely look to Carrier for compensation for damages and loss caused by Carrier's delay. In no event shall Broker be liable for any delays. Shipper shall be considered an intended third-party beneficiary of the contract between Broker and Carrier for the purpose of Shipper recovering delay damages for which Carrier is responsible.

SHIPMENT DAMAGE OR LOSS

1.14 The procedures for the handling of damage or loss to a Shipment shall be governed by 49 C.F.R. Part 370. In no event shall Broker be liable for any damage or loss to a Shipment. Shipper shall solely look to Carrier for compensation for any damage or loss to the Shipment. Shipper shall be considered an intended third-party beneficiary of the contract between Broker and Carrier for the purpose of Shipper recovering damages for such damage or loss.

1.15 Broker shall cooperate with Shipper in filing any claim against Carrier under 49 C.F.R. Part 370; provided however, Broker shall not be responsible for the settlement or outcome of a claim filed by Shipper against Carrier.

CLAIMS

1.16 Shipper must file written claims for cargo loss or damage with Carrier within one hundred eighty (180) days from the date of such loss, shortage or damage, which for purposes of the Agreement shall be the delivery date or, in the event of non-delivery, the scheduled delivery date. Shipper must file any civil action against Carrier in a court with proper jurisdiction within two (2) years from the date the Carrier provides written notice to Shipper that the Carrier has disallowed any part of the claim in the notice. It is understood and agreed that the Broker is not a carrier and that the Broker shall not be held liable for loss, damage or delay in the transportation of Shipper's property unless caused by Broker's negligent acts or omissions in the performance of this Agreement. Broker shall assist Shipper in the filing and/or processing of claims with the Carrier.

1.17 The parties shall notify each other within sixty (60) days of learning of any claims other than cargo loss or damage claims and shall file any such claims with the other party within one hundred eighty (180) days from the date of notice. Civil action, if any, shall be commenced in a court with proper jurisdiction within two (2) years from the date either party provides written notice to the other party of such a claim.

INDEMNITY

1.18 Broker shall defend, indemnify and hold Shipper and its agents and employees harmless from and against claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting from the negligent acts or omissions of Broker. Nothing contained herein shall be construed to require Broker to defend, indemnify or hold Shipper or its agents and employees harmless from their own fault or negligence. Broker's total liability to Shipper and anyone acting by, through, or under Shipper for any claim, cost, loss, expense or damage caused in part by the fault of Broker and in part by Shipper or any other entity or individual, shall not exceed the percentage share that Broker's fault bears to the total fault of Shipper, Broker and all other entities and individuals as determined on the basis of comparative fault principles.

1.19 Shipper shall defend, indemnify and hold Broker and its agents and employees harmless from and against claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting from the negligent acts or omissions of Shipper. Nothing contained herein shall be construed to require Shipper to defend, indemnify or hold Broker or its agents and employees harmless from their own fault or negligence. Shipper's total liability to Broker and anyone acting by, through, or under Broker for any claim, cost, loss, expense or damage caused in part by the fault of Shipper and in part by Broker or any other entity or individual shall not exceed the percentage share that Shipper's fault bears to the total fault of Broker, Shipper and all other entities and individuals as determined on the basis of comparative fault principles.

1.20 In the event of any claim against either party hereunder by an employee of the other party, the indemnification obligations of either party hereunder shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for either party under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

TERM OF AGREEMENT

1.21 This Agreement shall become effective on the date of this Agreement and shall continue in full force and effect for a period of one (1) year. Thereafter, this Agreement may be terminated by either party upon thirty (30) days advance written notice. In the event that this Agreement is not extended or is terminated, both parties shall be obligated to diligently fulfill their obligations under this Agreement for all Shipments which have been initiated under this Agreement but not yet complete.