



BROKER/SHIPPER TRANSPORTATION AGREEMENT

Revision 1.0 - Revision Date: January 1st, 2013

This agreement is made and intended to be effective this (the) _____ day of _____, 20____ by and between Company, having offices at 739 North Ave, Glendale Heights, IL 60139 ("Company") and _____, having offices at _____ ("Customer"); collectively, the "Parties".

RECITALS

(A) Company is licensed as a Property Broker by the Federal Motor Carrier Safety Administration (FMCSA) in Docket Number MC-394333, or by appropriate State agencies, and as a licensed broker, arranges for freight transportation. A copy of Company's FMCSA license is attached as Appendix A, and a copy of BROKER's Surety Bond or trust fund agreement is attached as Appendix B; and

(B) Customer, to satisfy some of its transportation needs, desires to utilize the services of Company to arrange for transportation of Customer's freight.

NOW, THEREFORE, intending to be legally bound, Company and Customer agree as follows:

AGREEMENT

- 1. Term.** The term of this Agreement shall be one (1) year, commencing on the date shown above, and shall automatically renew for successive one year periods; provided that either Party may terminate this Agreement on 30 days written notice to the other Party, with or without cause, or as otherwise provided in this Agreement.
- 2. Acceptance of Goods for Transit.** The Company undertakes to arrange for any or all of the following services (The Services): packing, crating, handling, loading, unloading, storage or transport of goods for the Customer. The Services shall be performed under the following terms and conditions which the Company has made available to the Customer on the Company's website, www.gofmi.com, under the link "Forms & Documents" / "Shipping Terms and Conditions."
- 3. Duties of the Company when acting as a Broker:** **(A)** The Company shall procure the Services from third parties in the name, and on behalf of, the Customer. **(B)** There shall be a direct relationship between the Customer and those third parties. The Company shall be permitted to act in any reasonably necessary manner and shall perform its duties using a reasonable degree of care and diligence. **(C)** The Company shall perform its services within a reasonable time, taking all reasonable steps to perform the transaction in accordance with the Customer's instructions. **(D)** The Company shall be permitted to depart from any instruction from the Customer if the Company deems it necessary to do so in order to protect the Customer's interests. **(E)** The Company shall seek further instructions from the Customer if it becomes impossible at any time for the Company to fulfill its duties. **(F)** The Company shall not be liable for loss of or damage to the goods while the goods are in the custody, possession or control of third parties.

Initials _____

4. **Duties of the Customer:** (A) The Customer warrants that it is either the owner or the authorized agent of the owner of the goods. (B) The Customer authorizes the Company to contract in the name of the Customer with third parties to perform any or all of the Services on behalf of the Customer. (C) The Customer shall provide a full and accurate description of the goods to be transported. (D) Except where the Company is instructed to do so, the Customer shall properly pack, stow and prepare the goods in a manner suitable and appropriate for shipment by any mode of transport. (E) The Customer shall mark the goods and the outside packaging as required by any laws or regulations which may be applicable while the Services are being provided. (F) The Customer shall pay all freight charges, duties, or other sums connected with the handling and transportation of the goods. (G) The Customer shall pay to the Company all sums immediately when due, without reduction or deferment on account of any claim. (H) The Customer shall remain responsible for the payment of all charges when the Services are to be provided upon instructions to collect freight, duties, charges or any other expenses from another. (I) The confiscation or detention of the goods by any governmental authority shall not affect or diminish the liability of the Customer to pay all charges or other sums due promptly on demand. (J) Customer shall comply with all applicable laws and regulations relating to the transportation of hazardous materials as defined in 49 CFR §172.800, §173, and § 397 et seq. to the extent that any shipments constitute hazardous materials. Customer is obligated to inform Company immediately if any such shipments constitute hazardous materials. Customer shall defend, indemnify and hold Company harmless from any penalties or liability of any kind, including reasonable attorney fees, arising out of Customer's failure to comply with applicable hazardous materials laws and regulations. (K) The Customer shall not deliver any bullion, precious metals, precious metal objects, gold, silver, platinum, precious or semi-precious stones, jewelry, money, securities, accounts, bills, currency, food stamps, lottery tickets, notes, bank notes, coins, bonds, negotiable instruments, evidences of debt, passports, tickets, documents, manuscripts, records, valuable papers, cigarettes, cellular telephones, PDA's, valuable works of art, bloodstock, live animals, plants or cuttings, contraband, or vehicles except under special arrangements in which notice is given to the Company. (L) The Customer shall advise Company if any goods are liable to taint or affect other goods or are likely to harbor or encourage vermin or other pests.
5. **Indemnification by the Customer.** The Customer shall indemnify and hold the Company harmless for: (A) All duties, taxes, fines, or other expenses incurred by the Company caused by the Customer or any party acting on his behalf. (B) Any claim for general average and/or salvage, and the Customer shall provide such security as may be required. (C) Where the Customer himself has prepared the goods for transport, for any claim by a third party for bodily injury or property damage arising out of the Customer's failure to pack, load, stow or otherwise adequately prepare the goods for shipment.
6. **Payments.** Company shall invoice Customer for its services in accordance with the rates, charges and provisions set forth, and any written supplements or revisions that are mutually agreed to between the Parties in writing. If rates are negotiated between the Parties and not otherwise confirmed in writing, such rates shall be considered "written," and shall be binding, upon Company's invoice to Customer and Customer's payment to Company. Customer agrees to pay Company's invoice within 15 days of invoice date without deduction or setoff.
7. **Lien on Cargoes.** (A) The Company shall have a general lien on any and all property of the Customer in its possession or control, for any claim for charges, expenses or advances incurred by the Company in connection with any of the Services rendered to the Customer. (B) The Company may, at its option, suspend property delivery until all Customers' obligations due to Company are paid. (C) If such claim remains unsatisfied for thirty (30) days after demand is made, the Company may sell the goods at public auction or private sale on ten (10) days' written notice to the Customer in satisfaction of the sum due to the Company. (D) Any surplus from such sale, after the payment of any applicable expenses, shall be transmitted to the Customer. (E) The Customer shall remain liable for any deficiency in the sale.

Initials _____

8. Presentation of Claims and Liabilities. (A) In the event that the goods are lost, damaged, delayed or otherwise received in a manner inconsistent with its intended delivery, the Customer shall give notice to the Company, immediately after it learns of the condition, but not later than seven (7) days thereafter. On receipt of such notice, the Company shall arrange on Customer's request an investigation of the circumstances surrounding the matter. (B) Customer shall be responsible for the timely filing of a claim with Carrier, if the Carrier does not pay a claim and Company is notified of this act, it is Company's sole duty to notify Customer in writing, and it is the Customer's duty to timely file a lawsuit or other dispute (e.g. arbitration) resolution format required for the shipment. (C) The Company shall not be liable for the loss, delay or damage to the goods. Carriers used for the Shipment will assume liability as provided under CFR 370 for all shipment loss and damage claims, including delay, will not exceed the least of (1) The invoice value (2) The declared value or (3) \$100,000 per shipment not to exceed the maximum amount of Carrier's cargo insurance, unless at time of booking the Shipment, Customer requested a higher amount as declared value and paid the appropriate excess valuation charge. Any Shipment of used materials may be subject to lower limitations of liability than the limits set forth in the preceding sentence, as published by Carrier. Customer shall seek restitution from the Carrier by filing a proper claim for loss and damage against the Carrier, and not against the Company. Note: Customer should procure cargo insurance to protect for loss, damage or delay that occurs in Mexico.

9. Insurance. Company agrees to procure and maintain at its own expense, at all times during the term of this Agreement, the following insurance coverage amounts:

(A) Comprehensive general liability insurance covering bodily injury and property damage	\$2,000,000
(B) Contingent Cargo Insurance	\$250,000
(C) Errors and Omissions Insurance	\$100,000
(D) Contingent Auto Liability or Hired and Non-owned Auto Liability Insurance	\$2,000,000

Company shall submit to Customer a certificate of insurance as evidence of such coverage and which names Customer as "Certificate Holder".

10. Surety Bond. Company shall maintain a surety bond or trust fund agreement as required by the Federal Motor Carrier Safety Administration in the amount of \$75,000 or as otherwise required by the FMCSA and furnish Customer with proof upon request.

11. Homeland Security. As applicable to each, respectively, Company and Customer shall comply with state and federal Homeland Security related laws and regulations.

12. Assignment/Modification of Agreement. Neither party may assign or transfer this Agreement, in whole or in part, without the prior written consent of the other party. No amendment or modification of the terms of this Agreement shall be binding unless in writing and signed by the Parties.

13. Severability/Survivability. In the event that the operation of any portion of this Agreement results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree that such portion or provision shall be severable and that the remaining provisions of the Agreement shall continue in full force and effect. The representations and obligations of the Parties shall survive the termination of this Agreement for any reason.

Initials _____

- 14. Independent Contractor.** It is understood between Company and Customer that Company is not an agent for the carrier or Customer and shall remain at all times an independent contractor. Customer does not exercise or retain any control or supervision over Company, its operations, employees, or carriers.
- 15. Non-waiver.** Failure of either party to insist upon performance of any of the terms, conditions or provisions of this Agreement, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of this Agreement, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.
- 16. Notices.** Unless the Parties notify each other in writing of a change of address, any and all notices required or permitted to be given under this Agreement shall be in writing (or fax with machine imprint on paper acknowledging successful transmission or email with confirmed receipt) and shall be addressed as follows:

<p>(Company) Freight Management, Inc. Attn: Joseph Mayo Address: 739 North Ave Glendale Heights, IL 60139 Phone: (630) 627-6560 Fax: (630) 627-7026 Email: jmayo@gofmi.com</p>	<p>(Customer) _____ Attn: _____ Address: _____ _____ Phone: _____ Fax: _____ Email: _____</p>
--	---

- 17. Indemnity.** Company and Customer shall each defend, indemnify and hold harmless the other party from and against all loss, damage, expense, including injury resulting in death, and damage to property arising out of or in connection with the indemnifying party's or its agents' and employees' failure to observe and/or enforce the duties and responsibilities set forth herein, including loading, handling, transportation, unloading or delivery of any Shipment hereunder or in any other way related to the indemnified party's or its agents' and employees' negligent acts, omissions or performance of their obligations hereunder, unless such injury is caused by the sole negligence of the indemnifying party.
- 18. Force Majeure.** Neither Company nor Carrier shall be liable for any delay in the performance of the Transportation Services resulting directly or indirectly from or contributed to by any force majeure, including, but not limited to, act of God, acts of government or other civil or military authorities, fires, accidents, floods, strikes, lockouts, war, riot or other circumstances beyond their reasonable control.
- 19. Waiver of Certain Damages.** In no event shall Company or Carrier be liable for any consequential, incidental, or special damages which may arise from loss, damage, non-delivery, or delay of any shipment. This limitation shall apply to and include, but not limited to damages for loss of profit, loss of income, or loss of business opportunity.
- 20. Law and Jurisdiction.** The terms and conditions of the Services to be provided shall be construed in accordance with the laws of the State of Illinois. Jurisdiction and venue, if any dispute, shall be with a court residing within Cook or DuPage Counties of Illinois.
- 21. Entire Agreement:** This Agreement, including all Appendices and Addenda, constitutes the entire agreement intended by and between the Parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed or implied, with respect to the subject matter hereof. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

Initials _____

In Witness Whereof, the Parties hereto have caused this Agreement to be executed in their respective names by their fully-authorized representatives as of the dates first above.

(Company) Freight Management, Inc.

(Customer) _____

Signature

Signature

Joseph Mayo
Printed Name

Printed Name

President/CEO
Title

Title