Broker – Carrier Agreement

This Transportation Agreement (the "Agreement"), is entered into this ______ day of _______, 20___ by

and between Dispatch Logistics Inc (hereinafter referred to as "BROKER")

and __________________________________ (hereinafter referred to as "CARRIER")

WHEREAS, "BROKER" is a person or company who arranges to carry the goods of another person (or company), for compensation and by commercial motor vehicle and may be duly registered where required.

WHEREAS, "CARRIER" is a person (or company) registered ("registered" means operating under authority issued by all applicable regulatory authorities) to carry the goods (property) of another person (or company) by commercial motor vehicle for compensation (copies of Operating Authorities are attached hereto as Appendix C)

WHEREAS, the name "SHIPPER" is the customer of the BROKER, and is also known but not limited to the names consignor, consignee, and receiver.

1. **CARRIER REPRESENTS AND WARRANTS THAT IT:**
   - **a.** Is an operator of commercial motor vehicle and/or a motor carrier, authorized to provide the transport of goods under contracts with shippers and receivers and/or brokers of materials, wares, merchandise, and general commodities, and
   - **b.** Shall transport the goods (property), under its own Operating Authority and subject to the terms of this Agreement, and
   - **c.** Makes the representations herein for the purpose of inducing BROKER to enter into this Agreement, and
   - **d.** Agrees that a Shipper's insertion of BROKER's name as the carrier on the bill of lading shall be for the Shipper's convenience only and shall not change the BROKER's or CARRIER's status as defined above, and
   - **e.** Will not re-broker, assign or interline the shipments hereunder, without prior written consent of BROKER. If CARRIER breaches this provision, BROKER shall have the right of paying the monies it owes CARRIER directly to the delivering carrier, in lieu of payment to CARRIER. Upon BROKER's payment to delivering carrier, CARRIER shall not be released from any liability to BROKER under this Agreement. In addition to the indemnity obligation in Par 1.h, CARRIER will be liable for consequential damages for violation of this Paragraph, and
   - **f.** Is in , and shall maintain compliance during the term of this Agreement, with all applicable federal, provincial (or state) and local laws relating to the provision of its services including, but not limited to: transportation of Dangerous Goods (or Hazardous Materials), (including the licensing and training of drivers), to the extent that any shipments hereunder constitute Dangerous Goods (or Hazardous Materials); security regulations; customs regulations; owner/operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety

regulations including, but not limited to, hiring, controlled substances, and hours of service regulations; sanitation, temperature, and contamination requirements for transporting food, perishable, and other products, qualification and licensing and training of drivers; implementation and maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers, and

g. CARRIER will notify BROKER immediately if any Operating Authority is revoked, suspended, or rendered inactive for any reason; and/or if it is sold, of if there is a change in control of ownership, and/or any insurance required hereunder is threatened to be or terminated, cancelled, suspended, or revoked for any reason, and

h. CARRIER shall defend, indemnify, and hold BROKER and its shipper customer harmless from any claims, actions, or damages, arising out of its performance under this Agreement, including cargo loss and damage, theft, delay, damage to property and personal injury or death. BROKER shall not be liable to the CARRIER for any claims, actions, or damages due to negligence of the CARRIER, or the shipper. The obligation to defend shall include all costs of defense as they accrue, and

i. Does not have an "Unsatisfactory" safety rating issued by the - ___________________________________ or any provincial regulatory authority and will notify BROKER in writing immediately if its safety rating is changed to "Unsatisfactory" or "Conditional", and

j. Authorizes BROKER to invoice CARRIER's freight charges to shipper, consignee or third parties responsible for payment, and

k. Has investigated, monitors and agrees to conduct business hereunder based on the credit-worthiness of BROKER and is granting BROKER credit terms accordingly.

2. <u>BROKER RESPONSIBILITIES</u>:

a. SHIPMENTS, BILLING & RATES: BROKER agrees to solicit and obtain freight transportation business for CARRIER to the mutual benefit of CARRIER and BROKER and shall offer CARRIER at least three (3) loads/shipments annually. BROKER shall inform CARRIER of (a) place of origin and destination of all shipments; and (b) of applicable, any special shipping instructions or special equipment requirements, of which BROKER has been timely notified.

b. BROKER agrees to conduct all billing services to shippers. CARRIER shall invoice BROKER for its (CARRIER's) charges, as mutually agreed in writing, by electronic means, contained in BROKER's Load Confirmation Sheet(s). All CARRIER charges must be an all-in rate including HST / GST (where applicable). Additional rates for truckload or LTL shipments, or modification or amendments of the above rates, or additional rates, may be established to meet changing market conditions, shipper requirements, BROKER requirements, and/or specific shipping schedules as mutually agreed upon, and shall be confirmed in writing (electronically) by both Parties.

c. RATES: Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, released rates or values or tariff rules or circulars, shall only be valid when specifically agreed to in writing (electronically) by the Parties.

d. PAYMENT:

i. The Parties agree that BROKER is the sole party responsible for payment CARRIER's charges. Failure of BROKER to collect payment from its customer shall not exonerate BROKER of its obligation to pay CARRIER. CARRIER hereby waives the requirement under any applicable statute of regulation for BROKER to maintain a trust account or be subject to any trust obligations in respect of monies owed to CARRIER hereunder. BROKER agrees to pay CARRIER's invoice within thirty (30) days of receipt of the bill of lading and proof of delivery, provided CARRIER is not in default under the terms of this Agreement. If BROKER has not paid CARRIER's invoice as agreed, and CARRIER has complied with the terms of this Agreement, CARRIER may seek payment from the Shipper or other party responsible after giving BROKER twenty (20) business days advance notice. CARRIER shall not seek payment from Shipper if Shipper can prove payment to BROKER.

ii. Payment and other disputes are subject to the terms of Par 4.d, which provides in part prevailing parties are entitled to recovery of costs, expenses, and reasonable attorney fees.

e. If applicable, BROKER will notify CARRIER immediately if its Operating Authority is revoked, suspended, or rendered inactive for any reason; and/or if it is sold, or if there is a change to control in ownership, and/or any insurance required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason.

3. <u>CARRIER REPONSIBILITIES</u>

a. EQUIPEMENT: Subject to its representations and warranties in Paragraph 1 above, CARRIER agrees to provide the necessary equipment and qualified personnel for completion of the transportation services required for BROKER and/or its customers. CARRIER will not supply equipment that has been used to transport hazardous wastes, solid or liquid. CARRIER agrees that all shipments will be transported and delivered with reasonable dispatch, or as otherwise agreed in writing.

b. BILLS OF LADING: CARRIER shall issue a Uniform Bill of Lading for the property it received for transportation under this Agreement. Unless otherwise agreed in writing, CARRIER shall become fully responsible/liable for the freight when it takes/receives possession thereof, and the trailer(s) is loaded, regardless of whether the bill of lading has been issued, and/or signed, and/or delivered to CARRIER, and which responsibility/liability shall continue until delivery of the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of the bill of lading (including but not limited to payment terms) inconsistent with the terms of this Agreement shall be controlled by the terms of this Agreement. Failure to issue a bill of lading or sign a bill of lading acknowledging receipt of the cargo, by CARRIER, shall not affect the liability of the CARRIER.

c. LOSS & DAMAGE CLAIMS:

i. CARRIER shall comply with any applicable federal, state, or provincial regulatory agency, for processing all loss and damage claims and salvage and

ii. CARRIER liability for any cargo damage, loss or theft from any cause shall be determined under the uniform bill of lading in effect in the province where the carrier issues a bill of lading. It is agreed that the BROKER on the behalf od the SHIPPER is deemed to have declared the full value of the shipment for the carriage on the bill of lading and in this regard the CARRIER shall have full liability for the cargo damage, loss or theft.

iii. SPECIAL DAMAGES: CARRIER indemnification liability for freight loss and damage claims shall include legal fees which shall constitute special damages, the risk of which is expressly assumed by CARRIER, and which shall not be limited by any liability of CARRIER.

- **iv.** CARRIER shall pay, decline, or make settlement offer in writing on all cargo loss or damage claims within 60 days of receipt of the claim. Failure of CARRIER to pay, decline or offer settlement within this 60-day period shall be deemed admission by CARRIER of full liability for the amount claimed and a material breach of this Agreement.

d. INSURANCE: CARRIER shall furnish BROKER with Certificate(s) of Insurance, or insurance policies providing thirty (30) days advance written notice of cancellation or termination, and unless otherwise agreed, subject to the following minimum limits: Public liability $1,000,000 or $______________; motor vehicle (including hired and non-owned vehicles), property damage, and personal injury liability $1,000,000 or $____________; cargo damage/loss $200,000; workers' compensation with limits required by the law. Except for the higher coverage limits which may be specified above, the insurance polices shall comply with minimum requirements of applicable federal, state or province regulatory agency. Nothing in this Agreement shall be construed to avoid CARRIER's liability due to any exclusion or deductible in any insurance policy.

e. ASSIGNMENT OF RIGHTS: CARRIER automatically assigns to BROKER all its rights to collect freight charges from Shipper or any responsible third party on receipt of payment from BROKER.

4. <u>MISCELLANEOUS</u>:

a. INDEPENDENT CONTRACTOR: It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor and that no employer/employee relationship exists or is intended. BROKER has no control of any kind over CARRIER, including but not limited to routing of freight, and nothing contained herein shall be construed to be inconsistent with this provision.

b. NON-EXCLUSIVE AGREEMENT: CARRIER and BROKER acknowledge and agree that this contract does not bind the respective Parties to exclusive services to each other. Either party may enter into similar agreements with other carriers, brokers, or freight forwarders.

c. WAIVER OF PROVISIONS: Failure of either Party to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver of any subsequent failure or breach and shall not affect or limit the right of either Party to thereafter enforce such term or provision.

d. NO BACK SOLICITATION:

- **i.** Unless otherwise agreed in writing, CARRIER shall not knowingly solicit freight shipments for a period of 24 months following the termination of this Agreement for any reason, from any shipper, consignor, consignee, or other customer of the BROKER, when such shipments of shipper customers were first tendered to CARRIER by BROKER.
- **ii.** In the event of breach of this provision, BROKER shall be entitled, for a period of 36 months following delivery of the last shipment transported by CARRIER under this Agreement, to a commission of twenty percent (20%) of the gross transportation revenue (as evidenced by freight bills) received by CARRIER for the transportations of said freight as liquidated damages. Additionally, BROKER may seek injunctive relief, and, in the event, it is successful, CARRIER shall be liable for all costs and expenses incurred by BROKER, including, but not limited to, reasonable attorney's fees.

e. CONFIDENTIALITY:

i. In addition to Confidential Information protected by law, statutory or otherwise, the Parties agree that all of their financial information and that of their customers, including but not limited to, freight and brokerage rates, amounts received for brokerage services, amounts of freight changes collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared or learned between the Parties and their customers, shall be treated as Confidential, and shall not be disclosed or used for any reason without prior consent.

ii. In the event of violation of this Confidentiality paragraph, the Parties agree that the remedy at law, including monetary damages, may be inadequate and that the Parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating Party from further violation of this Agreement in which case the prevailing Party shall be liable for all costs and expenses incurred, including but not limited to, reasonable attorney's fees.

f. CONTRACT TERM: The term of this Agreement shall be one year from the date hereof and thereafter it shall automatically be renewed for successive one (1) year periods, unless terminated, upon thirty (30) day's prior written notice, with or without cause, by either Party at any time, including the initial term. In the event of termination of this Agreement for any reason, the Parties shall be obligated to complete performance of any work in progress in accordance with the terms of this Agreement.

g. SEVERANCE: SURVIVAL: In the event of any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected, and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of this Agreement for any reason.

IN WITNESS WHEREOF, we have signed this Agreement the date and year first shown above.

(BROKER)	(CARRIER)
______________________________	______________________________
Authorized Signature	Authorized Signature
______________________________	______________________________
Printed Name	Printed Name
______________________________	______________________________
Title:	Title:
______________________________	______________________________
Address:	Address:
______________________________	______________________________
Phone:	Phone: