

H&N LOGISTICS, LLC

Transportation Agreement

(Broker / Broker)

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between H&N Logistics, LLC, a Wisconsin limited liability company domiciled in Madison, Wisconsin, (hereinafter referred to as "H&N"), and _____ of _____, _____, (hereinafter referred to as "BROKER").

WITNESSETH

WHEREAS, H&N is duly authorized to engage in operations as a property broker of regulated freight moving in interstate or foreign commerce pursuant to License No. MC-433057 issued by the Federal Motor Carrier Safety Administration, controls the transportation which is the subject of this Agreement, and desires to tender to BROKER for transportation such goods of its customers as are offered to H&N; and

WHEREAS BROKER is duly authorized to engage in operations as a property broker of regulated freight moving in interstate or foreign commerce pursuant to License No. MC-_____ issued by the Federal Motor Carrier Safety Administration and, upon acceptance of loads tendered from H&N, desires to participate in the arranging for the transportation of such freight as is tendered to BROKER by H&N by providing services designed to meet the special and distinct needs of the shipper; Services under this contract shall include domestic U.S. full truckload and less than truckload movements of freight.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein contained, the parties mutually agree as follows:

1. Representations and Warranties of BROKER. BROKER represents and warrants to H&N that it:

a. Has been issued Motor Property Broker Authority in Permit No. MC-_____ by the Federal Motor Carrier Safety Administration or its predecessor agency, and such authority is now, and will continue during the term of this Agreement to be, valid and subsisting.

b. Has been issued appropriate operating authorities, licenses, certificates or permits for operations in the states and provinces where the operations contemplated by this Agreement shall be performed.

c. Has and will maintain, while this Agreement remains in effect, the public liability and cargo insurance described in paragraphs (8) and (9) of this Agreement.

d. Makes the representations herein for the purpose of inducing H&N to enter into this Agreement.

e. Has authorized the person(s) executing this Agreement to do so on BROKER'S behalf.

f. Is in compliance with all applicable federal, state, provincial and local laws relating to its service and the performance of this Agreement and will remain in compliance with all such laws during the entire term of this Agreement.

2. Representations and Warranties of H&N. H&N represents and warrants to BROKER that it:

a. Has been issued Motor Carrier Property Broker License No. MC-433057 by the Federal Motor Carrier Safety Administration and such authority is now, and will continue during the term of this Agreement to be, valid and subsisting.

b. Has now and will maintain, while this Agreement remains in effect, a Property Broker's Surety Bond under 49 C.F.R. 387.307 or trust fund agreement authorized therein.

c. Makes the representations herein for the purpose of inducing BROKER to enter into this Agreement.

d. Has authorized the person(s) executing this Agreement to do so on Broker's behalf.

3. Duties of BROKER. BROKER agrees to arrange for the transport and delivery of specified commodities, in accordance with the shipping instructions issued to it by H&N on behalf of various shippers, and will engage motor carriers to cause its driver (s) to be responsible for the loading and/or unloading of the commodities tendered to it by H&N as hereinafter set forth. BROKER shall engage motor carriers who shall have the duty to determine that each shipment is properly loaded and the motor carrier will have contractually agreed to indemnify, defend and hold harmless H&N and shipper against all loss, cost, damage, or liability arising or growing out of improper or unsafe loading or unloading of any shipment unless such loss, cost, damage or liability is caused or contributed to by the negligence or other act or omission of H&N or the shipper. BROKER'S acceptance of any shipment loaded or unloaded by motor carriers engaged by BROKER signifies that the number of pieces shown on the Bill of Lading is correct and that then lading is in apparent good condition.

4. Rates and Charges. BROKER agrees to provide transportation services at the rates, charges, terms and conditions as set forth in the Schedule of Actual Rates and Charges, which is annexed hereto. If no schedule of Actual Rates and Charges is annexed to this Agreement, it shall be presumed that the rate for each shipment has been negotiated and agreed to verbally. H&N's settlement statement and payment to BROKER shall be conclusively presumed to reflect the agreed rate unless BROKER notifies H&N in writing within fifteen (15) days of its receipt of H&N's settlement statement and payment. H&N shall make payments to BROKER weekly, commencing approximately two weeks from the date service is provided by BROKER. If both parties have executed a Load Confirmation Sheet or similar document containing the terms of service and the applicable charges due BROKER, said document will be presumed to manifest the intent of the parties with respect to all charges due BROKER for the shipment or shipments described therein, notwithstanding any conflicting provisions in the Schedule of Actual Rates and Charges.

5. Equipment; Delivery Standard; Consequential Damages. BROKER agrees to engage motor carriers who have contractually agreed to provide equipment which

satisfies the reasonable needs of H&N and its customers, and to transport and deliver all shipments with reasonable dispatch unless a different service standard is required by H&N or its customers and accepted by BROKER.

6. Independent Contractor Status of BROKER. BROKER, in its performance of this Contract, shall be and remain an independent contractor, and nothing contained herein shall be construed to be inconsistent with such relationship or status.

a. BROKER agrees to engage motor carriers who shall, at its own cost and expense, provide and maintain motor truck equipment for use in the services to be performed hereunder which is adequate and satisfactory to H&N and its customers, and CARRIER shall also procure and maintain such licenses and permits as are required by local, state or federal authorities with respect to such transportation services and shall comply with the laws and regulations applicable thereto. BROKER agrees to engage motor carriers who shall pay all costs and expenses relating to the transportation services, including but not limited to all expenses of loading and unloading, fuel, vehicle maintenance, taxes, tolls, fees, and all compensation for personal services, unless H&N or its customer expressly agrees to pay (or reimburse) carrier for any such expenses.

b. BROKER agrees that the equipment to be provided pursuant to this agreement shall be at all times be in the engaged motor carrier's exclusive possession, control and use and shall be operated pursuant to authorities, permits and other operating credentials which shall be issued in the name of the motor carrier, and not H&N Transport, Inc. or H&N Logistics, LLC. BROKER shall be fully and solely responsible to the public and all regulatory agencies having jurisdiction over the operation, including the Federal Motor Carrier Safety Administration and the Wisconsin Department of Transportation.

c. BROKER agrees to engage motor carriers who have contractually agreed that the motor vehicle equipment used in the performance of this contract shall be in good working condition and in full compliance with FMCSA regulations regarding such equipment; that the proper licenses, authorities, permits, and other operating credentials have been obtained, and that the driver(s) assigned to said equipment have all been properly qualified for such operations under the rules and regulations of the FMCSA found at 49 C.F.R. Part 391.

d. BROKER agrees that any penalties, forfeitures or fines incurred in the performance of this contract, including but not limited to such things as overweight, equipment or driving violations, shall not, in any manner, be the responsibility of H&N or any of its customers, suppliers, parents, subsidiaries or affiliates.

f. BROKER or the motor carrier engaged by BROKER respectively shall employ or contract with all persons required for the performance of this contract, and each shall respectively assume the responsibility for the payment of state and federal contributions or taxes for unemployment insurance, workers compensation, FICA, Medicare and any other taxes or contributions required with respect to the persons engaged in the performance of transportation services hereunder, and further agrees to comply with the applicable rules and regulations promulgated under such laws as are applicable thereto.

7. Liability. Neither party shall be liable for failure to perform or delay in the performance of any of the terms or provisions hereof when such failure or delay is occasioned by Acts of God, the public enemy, acts of terror, war, floods, storms or other

acts of the elements, accidental fires, strikes, lockouts or other labor acts of regulations, or any other circumstances or conditions beyond the reasonable control of said party and without the fault or neglect of such party, whether similar or not to the foregoing. Notwithstanding BROKER'S status as a motor property broker, the standard of liability for freight loss and damage shall be consistent with the common carrier standard of liability set as established by common law and the Carmack Amendment to the Interstate Commerce Act, and BROKER shall be liable for the full actual value of any goods which are lost, destroyed or damaged in transit unless such loss, destruction or damage is caused by circumstances falling within a recognized exception to common carrier liability. BROKER'S Maximum liability for goods lost, destroyed or damaged shall not exceed \$100,000 per shipment. Less than truckload shipments shall be further subject to the current NMFC-100 and/or any applicable motor carrier's Rules Tariffs. BROKER shall not be liable for any consequential or special damages whatsoever.

8. Liability Insurance. BROKER agrees that it shall procure and maintain at its expense, with reputable insurance carriers, the necessary types and kinds of public liability insurance required by the Federal Motor Carrier Safety Administration, but in no event less than \$750,000.00 combined single limit, and further agrees to furnish to the H&N upon request therefor, written certificates obtained from such insurance carrier or carriers, confirming that such insurance has been procured and is being paid for and maintained and naming H&N as an additional insured.

9. Cargo Insurance. BROKER further agrees that it shall procure and maintain at its own expense, with reputable insurance carriers, cargo insurance in the amount of \$10,000.00 to compensate H&N, its customers, or the owner or consignee of the goods, for loss or damage to the property which comes into the possession of BROKER in the performance of transportation service pursuant to this agreement. The cargo insurance shall be in the form required by 49 C.F.R. 387.301(b) and shall have no exclusions or restrictions that would not be accepted by the Federal Motor Carrier Safety Administration for a filing under the statutory requirement of 49 C.F.R. 387.301(b), but shall, in all respects, be identical to the cargo insurance filed in accord with said section. BROKER shall, at H&N's request, cause its insurance carrier to forward forthwith to H&N a standard Certificate of Cargo Insurance, which Certificate shall name H&N as an additional insured and which shall require the insurance carrier to give H&N written notice ten (10) days prior to the cancellation of such cargo insurance.

10. Payment. H&N agrees to remit to BROKER the sum specified in its settlement statement within twenty (20) days of the date of delivery of the goods, and submission to H&N of proper proof of delivery and other evidence that the BROKER'S performance of the requested services has been completed.

11. Bill of Lading. All shipments transported pursuant to this Agreement shall be deemed to be governed by the terms and conditions of the Uniform Straight Bill of Lading. If any term or condition of the bill of lading conflicts with the terms and conditions of this Agreement, this Agreement shall take precedence. Unless otherwise agreed in writing, BROKER shall become responsible for the freight when it receives or accepts possession thereof, regardless of whether a bill of lading has been issued. Failure on the part of the

BROKER to issue a bill of lading, or to execute a bill of lading acknowledging receipt of the cargo, shall not affect the liability of the BROKER for loss of, or damage to, the cargo.

12. Contract Carrier Status. BROKER represents and warrants to H&N that BROKER is a duly licensed property broker of regulated freight moving in interstate or foreign commerce pursuant to one or more permits issued to BROKER by the Federal Motor Carrier Safety Administration. BROKER further represents and warrants to H&N that BROKER is not certificated as a motor common carrier of property by the Federal Motor Carrier Safety Administration or, if BROKER does hold common carrier authority, than none of the operations which BROKER will conduct pursuant to this transportation agreement shall be conducted as a common carrier and further, that if BROKER has published any motor carrier tariffs with the Federal Motor Carrier Safety Administration, or maintains unpublished tariffs or rates, none of the rates or terms and conditions set forth in any such tariffs which are inconsistent with the rates and terms established by this Agreement shall be applicable to any transportation services which BROKER shall perform pursuant to this Agreement.

13. BROKER'S Lien. BROKER hereby waives any lien it may have on the goods being transported pursuant to this Agreement under the Uniform Commercial Code or other provisions of law, and BROKER agrees that it shall not bill or otherwise seek recovery from anyone other than H&N for freight charges earned by BROKER in the performance of this Agreement, nor shall BROKER accept payment from any consignor, consignee or party other than H&N without the express written consent of H&N.

14. Assignment. BROKER agrees that it will not assign or co-broker any shipments which are tendered to BROKER by H&N pursuant to this Agreement, without H&N's prior written consent to do so. H&N shall not assign this Agreement without prior written notice to BROKER.

15. Indemnity. BROKER agrees to engage only motor carriers who have contractually agreed to defend, indemnify and hold H&N and its customers harmless from any claims, demands, losses, damages or liability (including reasonable attorneys fees incurred by H&N and its customers) arising out of the motor carriers performance of this Agreement, including but not limited to injuries to persons or property occurring at the premises of any consignor or consignee. Should the motor carrier fail or refuse to fulfill this obligation, BROKER shall indemnify H&N and its customers. However, under no circumstances, shall either BROKER or any motor carrier engaged by BROKER, be obligated to this indemnification to the extent that any claim, demand, loss, damage, liability or injury is caused or contributed to by the negligence or other act or omission of H&N or its shippers or customer or any of their respective representatives.

16. Nonexclusive Agreement. BROKER and H&N mutually agree that this is not intended as an exclusive agreement, and that either party may enter into similar agreements with other carriers, brokers or freight forwarders.

17. Breach of Agreement; Remedies. In the event of a material breach of a material term of this Agreement by BROKER or H&N, the non-breaching party shall have the right to immediately terminate this Agreement.

18. Applicable Law; Dispute Resolution. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin as to both interpretation and performance except where expressly preempted by applicable federal statutes or regulations. In the event of any dispute or disagreement involving the interpretation or performance of this Agreement, including but not limited to claims for loss of or damage to cargo and disputes regarding applicable freight charges and terms of service, the parties may agree that such disputes or disagreements shall be referred to the alternative dispute resolution program sponsored by the Transportation Lawyers Association, or similar mediation or arbitration service for disposition in accordance with the sponsoring organization's rules and procedures before bringing legal action in a court of law. The parties mutually agree to exert their best efforts to resolve all disputes by good faith settlement or negotiation whenever possible, and to make use of alternative dispute resolution mechanisms to the maximum extent practicable, and hereby authorize the Court to award all or a portion of its attorneys fees to the prevailing party if the Court finds that the non-prevailing party failed to negotiate in good faith a resolution of the dispute. Such an award of attorney's fees shall be committed to the sound discretion of the trial court. Any litigation involving the interpretation or performance of this Agreement may be venue in Circuit Court for Iowa County, Wisconsin or an alternative venue as the parties shall mutually agree.

19. Term. This Agreement shall remain in effect and full force for one year from the date hereof, and shall be automatically renewed from year-to-year thereafter, subject to the right of termination by either party at any time on 30 days written notice to the other party.

20. Loss and Damage Claims. The provisions contained in 49 C.F.R. Part 370 shall govern the processing of claims for loss, damage, injury, or delay to property and the processing of salvage. BROKER shall promptly investigate and attempt in good faith to resolve all such claims whether submitted initially to H&N or directly to BROKER by the injured party.

21. Nondisclosure. BROKER and H&N may not disclose the terms of this Agreement to anyone not a party to this Agreement without the prior written consent of the other party. The Parties shall treat respectively all information relating to the identity of consignors and consignees, origins, destinations, commodities, volume and frequency of movements and methods of distribution as confidential and proprietary information of shall not divulge such information to third parties without the express written consent of the other party.

(The balance of this page is intentionally left blank)

IN WITNESS WHEREOF the parties have caused this Agreement to be executed as of the day and year specified above.

ACCEPTED AND AGREED:

H&N LOGISTICS, LLC:
708 Heartland Trail Suite 2000
Madison WI 53717

BY _____
TITLE _____
DATE _____

ACCEPTED AND AGREED:

BROKER:

BY _____
TITLE _____
DATE _____
TAXPAYER ID # _____
US DOT# _____
MC# _____
PHONE # _____
MOBILE PHONE # _____
FAX # _____
EMAIL _____