Broker/Motor Carrier Agreement

March 28, 2022

Pro Transportation
Document Sender : Brian Voigt
Signer: Brian Voigt

verified by approveme

Broker/Motor Carrier Agreement

This Broker / Motor Agreement ("Agreement") is entered into this Select Date , by and between Pro Transportation Services, Inc. ("Broker"), a Registered Property Broker, License Number MC-239010 and Carrier Name , a Registered Motor Carrier and/or Broker, Permit/Certificate Number DOT- DOT # / MC MC Number ("Carrier and/or Broker"); collectively, the "Parties".

For the purpose of this Agreement, "Registered" means operated under authority issued under Title 49 of the United States Code, and regulations promulgated by the Federal Motor Carrier and/or Broker Safety Administration (or its predecessors) within the U.S. Department of Transportation.

1. CARRIER AND/OR BROKER REPRESENTS AND WARRENTS TO BROKER THAT IT:

a) Is a Registered Motor Carrier and/or Broker of Property authorized to provide transportation of property under contracts with shippers and receivers and/or brokers of general commodities and hazardous materials (initial here Initials Here NO HAZ MAT).

b) Shall transport the property tendered to it by Broker under its own operating authority and subject to the terms of this Agreement.

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

d) Agrees that the Shipper's insertion of BROKER" S name as the Carrier and/or Broker on the bill of lading shall be the Shipper's convenience only and shall not change BROKER'S status as a property broker nor CARRIER AND/OR BROKER'S status as a motor Carrier and/or Broker.

e) Will not re-broker, assign or interline the shipments transported hereunder, without prior written consent of BROKER. If CARRIER AND/OR BROKER breaches this provision, BROKER shall have the right to pay the monies it owes CARRIER AND/OR BROKER directly to the delivering Carrier and/or Broker, in lieu of payment to CARRIER AND/OR BROKER. In such a case, CARRIER AND/OR BROKER shall not be release from liability to BROKER under this Agreement. In addition to the indemnity obligation in Paragraph 1.i, CARRIER AND/OR BROKER will be liable for the direct, actual and consequential damages arising from a violation of this Paragraph 1.e.

f) Is in, and shall maintain compliance during the term of this Agreement, with all applicable federal, state and local laws relating to its operations including, but not limited to:

i. Transportation of Hazardous Materials, (including the licensing and training of drivers), unless disclaimed in Paragraph 1.a., as defined in 49 C.F.R. §172.800, §173, and §397 et seq. to the extent that any shipments hereunder constitute Hazardous Materials.

ii. Department of Homeland Security regulations.

iii. Independent Contractor / Equipment Lease regulations.

iv. Loading and securing of freight standards and regulations.

v. Implementation and maintenance of driver safety regulations including, but not limited to, qualification and hiring, controlled substances, and hours of service regulations.

vi. Sanitation, temperature, and contamination requirements for transporting food, perishables, and other products, qualification and licensing and training of drivers.

vii. Implementation and maintenance of equipment safety regulations.

viii. Maintenance and control of the means and method of transportation including, but not limited to performance of its services.

g) Will notify BROKER immediately if its federal Operating Authority ("Registered" status) is revoked, suspended, or rendered inactive for any reason; and/or if it is sold, or if there is a change in control of ownership, and /or any insurance required hereunder is threatened to be or is terminated, cancelled,

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suspended, or revoked for any reason.

h) Shall inform and advise BROKER of any information obtained by CARRIER AND/OR BROKER in performance of this Agreement which is contrary to the information communicated by BROKER to CARRIER AND/OR BROKER under Paragraph 2.a., and any other material aspect of CARRIER AND/OR BROKERS'S service hereunder which conflicts with the specific requirements of each shipment transported hereunder.

i) Does not have an "Unsatisfactory" safety rating issued by the Federal Motor Carrier and/or Broker Safety Administration (FMCSA), U.S. Department of Transportation, and will notify BROKER in writing immediately if its safety rating is changed to "Unsatisfactory" or "Conditional".

j) Authorizes BROKER to render an invoice to the party contractually liable to BROKER for transportation service charges, which shall include CARRIER AND/OR BROKER'S freight charges and BROKER'S fees and charges.

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

CARRIER AND/OR BROKER shall defend, indemnify and hold BROKER, its shipper customer, and the bill of lading parties harmless from any claims, actions or damages, arising out of its performance under this Agreement or breach of CARRIER AND/OR BROKER'S representations under Paragraph 1, including damages of any kind asserted against BROKER for negligent hiring of CARRIER AND/OR BROKER, cargo loss and damage, theft, delay, damage to property, personal injury or death, arising out of BROKER'S performance hereunder, except that BROKERR shall have no liability to defend, hold harmless, and indemnify CARRIER AND/OR BROKER for the negligent hiring of CARRIER AND/OR BROKER. Neither Party shall be liable to the other for any claims, actions or damages due to the negligence of the other Party, or the shipper. The obligation to defend and indemnify shall include all costs and legal fees to defense as they accrue.

2. CARRIER AND/OR BROKER'S RESPONSIBILITES

a) In addition to the representation and warranties in Paragraph 1, CARRIER AND/OR BROKER agrees to provide the necessary equipment and qualified personnel for completion of the transportation services required by BROKER and BROKER'S customers. Unless CARRIER AND/OR BROKER holds Registered status as a hazardous materials hauler and BROKER has notified CARRIER AND/OR BROKER in writing on the Carrier and/or Broker Rate Confirmation that a shipment contains hazardous materials, CARRIER AND/OR BROKER will not supply equipment that has been used to transport hazardous wastes, solid or liquid, regardless of whether they meet the definition in 40 C.F.R. §361.1 et. Seq. CARRIER AND/OR BROKER agrees that all shipments will be transported and delivered with reasonable dispatch, or as otherwise agreed in writing.

b) CARRIER AND/OR BROKER shall issue (or execute) a bill of lading in compliance with 49 U.S.C. §80101 et seq., 49 C.F.R. §373.101 (and any amendments thereto), for the property it receives for transportation under this Agreement. Unless otherwise agreed in writing, CARRIER AND/OR BROKER shall become liable for the full actual value of the freight when it takes and receives possession thereof, and the trailer(s) is loaded, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to CARRIER AND/OR BROKER, and which reasonability and reliability shall continue until delivery of the shipment to the consignee and the consignee signs the bills 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 assignment shall be null and the terms of this Agreement shall apply. Failure to issue a bill of lading or sign a bill of lading acknowledging receipt of the cargo, by CARRIER AND/OR BROKER, shall not affect the liability of CARRIER AND/OR BROKER if its established that CARRIER AND/OR BROKER received the lading.

c) CARRIER AND/OR BROKER shall serve the best interests of BROKER and the bill of lading parties regarding the processing and settlement of cargo claims, overages, shortages, and damages. In doing so,

i. CARRIER AND/OR BROKER shall comply with C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations adopted by the Federal Motor Carrier and/or Broker Safety Administration, U.S. Department of Transportation, or any applicable state regulatory agency, for

processing all loss and damage claims and salvage.

ii. CARRIER AND/OR BROKER'S liability for any cargo damage, loss, or theft from any cause shall be determined under the provisions and principles of the Carmack Amendment, 49 U.S.C. §14706. Notwithstanding, CARRIER AND/OR BROKER'S liability shall be for the full actual value of the damaged, lost, stolen, or delayed freight.

iii. CARRIER AND/OR BROKER'S obligation to indemnify BROKER and the parties entitled to recover under the bill of lading 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/OR BROKER, and which shall not be limited by any liability of CARRIER AND/OR BROKER under this Agreement.

iv. Except as provided in Paragraph 1.e above, neither Party shall be liable to the other for consequential damages arising out of cargo loss or damages without prior written notification of the risk of loss by type and amount, and agreement to assume such responsibility is stated in writing.

v. Notwithstanding the terms of 49 C.F.R. 370.9, CARRIER AND/OR BROKER shall pay, decline or make settlement offer in writing on all cargo loss or damage claims within THIRTY (30) days of receipt of the claim, Failure of CARRIER AND/OR BROKER to pay, decline or offer settlement within this time period shall be deemed admission by CARRIER AND/OR BROKER of full liability for the amount claimed and a material breach of this Agreement.

vi. CARRIER AND/OR BROKER'S liability for cargo damage, loss, or theft from any cause for any one shipment, shall not exceed the full invoice value of the shipment plus taxing costs.

vii. CARRIER AND/OR BROKER shall recognize, and process cargo claims submitted by BROKER on behalf of BROKER'S shipping customer(s) as though the claim were submitted directly by the same.

d) CARRIER AND/OR BROKER shall furnish BROKER with Certificate(s) of Insurance, or insurance policies providing thirty (30) day advance written notice of cancellation or termination, and unless otherwise agreed, subject to the following minimum limits:

i. Public liability $1,000,000.

ii. Motor vehicle (including hired and non-owner vehicles), property damage, and personal injury liability $1,000,000 ($5,000,000 if transporting hazardous materials including environmental damages due to release or discharge of hazardous substances);

iii. Cargo damages/loss $100,000

iv. Workers compensation with limits required by law.

Except for the higher coverage limits which may be specified above, the insurance policies shall comply with minimum requirements of the Federal Motor Safety Administration and any other applicable regulatory state agency. Nothing in this Agreement shall be construed to avoid CARRIER AND/OR BROKER'S liability due to any insurance policy.

CARRIER AND/OR BROKER shall submit its Certificate of Insurance to: Pro Transportation Services, Inc 5151 Southwestern Blvd., Hamburg, NY 14075 attention: Insurance Representative Telephone: 716-646-0464 Fax: 716-312-7901. Pro Transportation Services Inc MUST be listed as the Certificate Holder.

e) CARRIER AND/OR BROKER irrevocably assigns to BROKER all its rights to collect freight charges from the Shipper or any responsible third party on the receipt of payment from BROKER. As such, CARRIER AND/OR BROKER shall provide BROKER with an invoice, a signed copy of the Carrier and/or Broker Rate Confirmation, signed bill of lading or proof of delivery, and all documentation in support of accessorial charges in a timely manner, and in no event later than 21 days from date of delivery.

CARRIER AND/OR BROKER shall defend, indemnify and hold BROKER , its shipper customer, and the bill of lading parties harmless from any claims, actions, or damages, arising out of its performance under this

Agreement or breach of CARRIER AND/OR BROKER'S representations under Paragraph 2, including damages of any kind asserted against BROKER for negligent hiring of CARRIER AND/OR BROKER, cargo loss and damage, theft, delay, damage to property, and personal injury or death, PROVIDED that, likewise, BROKER shall defend, indemnify, and hold CARRIER AND/OR BROKER harmless from any claims, actions, of damages, including cargo loss and damage, theft, delay, damage to property, and personal injury or death, arising out of BROKER'S performance hereunder, except that BROKER shall have no liability to defend, hold harmless and indemnify CARRIER AND/OR BROKER for the negligent hiring of the CARRIER AND/OR BROKER. Neither Party shall be liable to the other for any claims, actions or damages due to the negligence of the other Party, or the shipper. The obligation to defend and indemnify shall include all costs and legal fees of defense as they accrue.

3. BROKER RESPONSIBILITES:

a) Broker shall solicit and obtain freight transportation business for CARRIER AND/OR BROKER to the mutual benefit of CARRIER AND/OR BROKER and BROKER. BROKER shall inform CARRIER AND/OR BROKER of (a) the place of origin and destination of each shipment tendered under Agreement; and (b) if applicable, any special shipping instructions or special equipment requirements, of which BROKER has been timely notified.

b) BROKER shall invoice the services of BROKER and CARRIER AND/OR BROKER to the party, which is contractually responsible for payment to BROKER.

CARRIER AND/OR BROKER shall invoice BROKER for CARRIER AND/OR BROKER'S charges, as mutually agreed in writing, by fax, or by electronic means, contained in BROKER'S written Carrier and/or Broker Rate Confirmation, each of which shall be incorporated herewith upon execution by BROKER and delivery to CARRIER AND/OR BROKER by facsimile or electronic transmission.

CARRIER AND/OR BROKER SHALL SUBMIT TO BROKER WITH ITS INVOICE A COPY OF THE SIGNED (BY BROKER) CARRIER AND/OR BROKER RATE CONFORMATION WHICH REFLECTS THE FINAL CHARGES DUE CARRIER AND/OR BROKER.

c) Rates which are verbally agreed upon shall be deemed confirmed in writing where CARRIER AND/OR BROKER has billed the agreed rate and BROKER has paid it. All written Carrier and/or Broker Rate Confirmations, including confirmations by billing and payment, shall be incorporated herewith.

Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, released rates or vales, or tariff rules or circulars, shall only be valid when specially agreed to in a signed writing by the Parties.

NOTE: CARRIER AND/OR BROKER should insist that all accessorial charges be confirmed in writing by BROKER, as the absence of such written confirmation will delay or excuse payment to CARRIER AND/OR BROKER. Initial Here **CARRIER AND/OR BROKER INITIAL**

d) The Parties that BROKER shall be responsible for the billing and collection of freight charges as follow:

i. BROKER is the sole party responsible for payment of CARRIER AND/OR BROKER'S charges. Failure of BROKER to collect payment from its customer shall not release BROKER of its obligation to pay CARRIER AND/OR BROKER, provided, however, that BROKER shall have the right, duty and privilege to assert against CARRIER AND/OR BROKER all customer defense(s) to payment. Notwithstanding, BROKER shall pay CARRIER AND/OR BROKER'S invoice(s) within Thirty (30) days of receipt of the bill of lading or proof of delivery, and all additional supporting documents in connection with CARRIER AND/OR BROKER shall and may not seek payment from any bill of lading party which can prove payment to BROKER.

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

e) BROKER shall maintain a surety bond / trust fund in the amount of TEN THOUSAND DOLLARS ($10,000) and file evidence of the same with the Federal Motor Safety Administration (FMCSA).

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

4. MISCELLANEOUS:

a) The relationship between BROKER and CARRIER AND/OR BROKER is that of independent contractor and not that of employer / employee.

BROKER has insufficient control of CARRIER AND/OR BROKER, including but not limited to CARRIER AND/OR BROKER'S discretion to route freight, assign equipment and drivers, and otherwise the means or methods of CARRIER AND/OR BROKER'S service and nothing contained herein shall be construed to be inconsistent with this provision.

b) CARRIER AND/OR BROKER 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 Carrier and/or Brokers, brokers, or freight forwarders.

c) CARRIER AND/OR BROKER and BROKER acknowledge and agree that certain procedures shall apply in the event of breach or dispute.

i. 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 a term or provision.
ii. This Agreement is for specified services pursuant to 49 U.S.C. §14101(b). To the extent that terms and conditions herein are inconsistent with Part (b), Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995), the Parties expressly waive any or all rights to remedies they may have under such laws.

d) In the event of a dispute arising out of this Agreement, including but not limited to Federal or State statutory claims, Venue for any such action shall be in New York, Erie County. Unless preempted or controlled by federal transportation law and regulations, the laws of the state of New York shall be controlling.

e) CARRIER AND/OR BROKER shall not knowingly solicit freight shipments so long as this Agreement is in effect and for TWELEVE (12) months following termination of this Agreement for any reason, from any shipper, consignor, consignee, or other customer of BROKER, when such shipments of shipper customers were first tendered to CARRIER AND/OR BROKER by BROKER. In the event of breach of this provision, BROKER shall be entitled, for a period of TWELEVE (12) months following delivery of the last shipment transported by CARRIER AND/OR BROKER under this Agreement, to a commission of FIFTEEN percent (15%) of the gross transportation revenue (as evidenced by freight bills) received by CARRIER AND/OR BROKER for the transportation of said freight as liquidated damages. Additionally, BROKER may seek injunctive relief, and, in the event, it is successful, CARRIER AND/OR BROKER shall be liable for all costs and expenses incurred by BROKER, including, but not limited to, reasonable attorney's fees.

f) 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 charges 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 written consent. In the event of violation of this 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.

g) This Agreement may not be amended, except by mutual written agreement, or the procedures set forth above (Paragraphs 3.b and 3.c).

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h) All notices provided or required by this Agreement, shall be made in writing, and delivered, return receipt requested, to the address shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax. Notices sent as required hereunder, to the addresses shown in this Agreement, shall be deemed sent to the correct address, unless the Parties are notified in writing of any changes in address.

i) The term of this Agreement shall be one (1) 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.

j) In the event 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, right and obligations of the parties hereunder shall survive termination of this Agreement for any reason.

k) This Agreement may be executed in any number of counterparts each of which shall be deemed to be a duplicate original hereof.

l) The Parties to this Agreement are authorized to fax and email to each other at the numbers and addresses shown herein, (or otherwise modified in writing from time to time) shipment availabilities, equipment and rate promotions, or any advertisements of new services.

m) This Agreement contains the entire understanding of the Parties and supersedes all verbal and written prior agreements, arrangements, and understandings of the Parties relating to the subject matter stated herein. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, proceeding involving this Agreement.

March 28, 2024

Print Name

Title

Company Address

Company City/State/Zip

Phone Number

Email Address

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

PRO TRANSPORTATION SERVICES, INC CARRIER AND/OR BROKER

Brian D, Voigt Chief Executive Officer

Pro Transportation Services, Inc.

5151 Southwestern Blvd.

Hamburg, NY 14075

Brian Voigt

X _____ X _____

Signed By Brian Voigt
Signed On: March 28, 2022

verified by approveme

Signature Certificate

Document name: Broker/Motor Carrier Agreement

Unique Document ID: 28577367997F58F201BE67072EC2B8056FFA8378

LEGALLY SIGNED USING WPesignature
Build. Track. Sign Contracts.

Timestamp	Audit
July 15, 2021 5:32 pm EDT	Broker/Motor Carrier Agreement Uploaded by Brian Voigt - bvoigt@protransportation.net IP 69.204.117.8
July 15, 2021 5:35 pm EDT	Confirmation Account - Confirmation@Protransportation.net added by Brian Voigt - bdata@revletsales.com as a CC'd Recipient Ip: 69.204.117.8
July 17, 2021 10:47 am EDT	Confirmation Account - Confirmation@Protransportation.net added by Brian Voigt - bvoigt@protransportation.net as a CC'd Recipient Ip: 98.17.85.175
December 20, 2021 12:26 pm EDT	Confirmation Account - Confirmation@Protransportation.net added by Brian Voigt - bvoigt@protransportation.net as a CC'd Recipient Ip: 69.204.117.8

This audit trail report provides a detailed record of the online activity and events recorded for this contract.