



**Sargent Trucking Inc.  
BROKER - MOTOR CARRIER AGREEMENT**

*(Note: This Agreement consists of three (3) pages. Please return all of them)*

This **Broker - Motor Carrier Services Agreement** ("Agreement") is entered into as of \_\_\_\_\_, 200\_ between **Sargent Trucking, Inc.** ("Sargent"), and \_\_\_\_\_

\_\_\_\_\_  
("Carrier") with reference to the following:

- A. Sargent is authorized to operate as brokers of motor carrier services under the authority of the Federal Motor Carrier Safety Administration ("FMCSA") pursuant to property broker's license No. MC 173802 (Sub 8);
- B. Carrier is a duly licensed motor carrier of property operating under the authority of FMCSA No. \_\_\_\_\_; and
- C. Sargent wishes to arrange on behalf of its customers for motor carrier services (excluding motor carrier services incidental to intermodal transportation) on the terms and conditions set forth in this Agreement (the "Motor Carrier Services"), and Carrier wishes to perform the Motor Carrier Services.

### **1. CARRIER RESPONSIBILITIES**

- a) Carrier will have and furnish all necessary and appropriate expertise, personnel, equipment, facilities, insurance, and government permits and licenses necessary and appropriate for performing the Motor Carrier Services, including (i) service able equipment and vehicles properly maintained in good and legal operating condition, (ii) drivers who are properly licensed, trained, and qualified to operate such equipment and vehicles, and (iii) compliance with all laws, rules, and regulations applicable to the Motor Carrier Services provided under this Agreement.
- b) Carrier will be responsible for and pay all costs and expenses necessary or incidental to the operation of such equipment and vehicles, including costs of fuel, supplies, licenses, permits, tolls, fines, citations, and penalties, except for fines or penalties for overweight shipments resulting from the negligent acts or omissions of Sargent.
- c) Carrier is and will operate as an independent contractor and not as an agent or employee of Sargent. Carrier will have exclusive control and direction of the persons operating vehicles or otherwise engaged in providing Motor Carrier Services. Carrier assumes full responsibility for the payment of local, state, and federal taxes, contributions or taxes for unemployment and workers' compensation coverage, social security, and all other employee benefits and protections arising out of the performance of the Motor Carrier Services.
- d) Carrier will transport all shipments tendered to it by Sargent under this Agreement only on equipment operated under the authority of Carrier, and Carrier will not subcontract, broker or in any other form arrange for the shipments to be transported by a third party without the prior written consent of Sargent. If such consent is granted, Carrier will be responsible and liable as provided in this Agreement for performance of the Motor Carrier Services as if Motor Carrier had performed them itself.
- e) Carrier shall be fully liable and responsible for all loss, destruction, shortage, theft, spoilage or other liability of any kind to or for all cargo, the transportation of which has been arranged by Sargent, while such cargo is in the care, custody or control of Carrier or otherwise arising out of Carrier's transport or failure to transport, such cargo.
- f) Carrier shall refrain from any direct or indirect solicitation of shipper and/or customer introduced to it by Sargent. If Carrier solicits any shipper or customer introduced to it by Sargent, Carrier shall pay to Sargent immediately on demand an amount equal to 10% of all revenues received by Carrier from such shipper and/or customer for (1) one year from the date of the first shipment which is in violation.

### **2. FREIGHT RATES AND CHARGES**

- a) Freight rates and charges may be agreed to orally from time to time as necessary to meet customer shipping schedules and deadlines. Sargent will confirm oral agreements by fax or e-mail before the scheduled pickup. If Carrier does not object to the confirmation within 24 hours, the terms of the confirmation will control. If Sargent does not provide a confirmation within 24 hours and Carrier does not object, the terms of the pickup or delivery notice will control.
- b) Sargent will pay freight and charges within thirty (30) days after approval by Sargent of Carrier's freight bill, bill of lading and delivery receipt. Carrier will submit its invoice within thirty (30) days after the date of completion of the service.
- c) Carrier will not withhold any goods tendered for transportation under this Agreement on account of rate disputes or the alleged failure of Sargent to pay for Services. Carrier is relying on the general credit of Sargent and waives and releases all liens which Carrier may otherwise have to shipments of Sargent or its customers in the possession or control of Carrier.
- d) Sargent will be under no obligation to pay an invoice submitted to Sargent more than 180 days after the date of completion of the service by Carrier.

### **3. CARGO CLAIMS**

- a) Carrier will promptly advise both the Sargent Insurance Department (phone: 207-429-8106 -- fax 207-425-7989) and the Sargent office that dispatched the shipment (at the phone#, fax# or Email address shown on the Order Notification and Rate Schedule provided to Carrier) of any cargo shortage, overage, loss or damage encountered in the performance of the Carrier Services. Carrier will fully describe exceptions for cargo shortages, overages, loss or damage on the bill of lading or proof of delivery and will include the seal number. When possible, Carrier will take photographs to document the exception and forward the photos to the Sargent Insurance Department.
- b) Sargent will submit to Carrier written notice of any cargo claim within nine (9) months of the delivery date of the cargo, or, if no delivery is made, the date of the occurrence resulting in the claim. The filing, processing and disposition of cargo claims by Carrier will be governed by 49 C.F.R. Part 370, Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage.
- c) The value of property for cargo claim purposes will be the actual cash value of the property lost or damaged at the time the loss or damage occurred, including freight charges.
- d) Carrier agrees and warrants that no released rates or liability limitations will apply to any shipment transported by Carrier under this Agreement.

#### **4. INSURANCE**

- a) During the term of this Agreement and when performing Carrier Services, Carrier will maintain at its sole expense the following insurance policies with insurance companies having a B+ or better A.M. Best rating, or as otherwise approved in writing by Sargent:
  - i) Commercial Automobile Liability insurance for "any auto" or for "scheduled and hired autos" with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per occurrence (or of \$5,000,000 if required by the FMCSA under 49 CFR Part 387 for the transportation of certain hazardous materials) covering all vehicles owned or used by Carrier in performing Carrier Services and endorsed to name Sargent, and if so directed by Sargent, the shipper, as additional insureds.
  - ii) Motor Truck Cargo Legal Liability insurance including coverage for unattended vehicles and employee theft and dishonesty with a minimum limit of \$100,000 per occurrence.
  - iii) Workers' Compensation: per statutory requirements.
  - iv) Any other insurance or surety bonding as may be agreed upon by Carrier and Sargent from time to time to meet the special insurance requirements of Sargent customers or as may be required under the laws, ordinances and regulations of any governmental authority, including the Federal Motor Carrier Act of 1980 and all rules and regulations of the U.S. Department of Transportation.
- b) Before transporting any shipment under this Agreement, Carrier will deliver to Sargent certificates of insurance evidencing all insurance required under paragraph 4.a). All such insurance will provide Sargent with 30 days' prior written notice of cancellation/non-renewal and 10 days' advance written notice of cancellation for non-payment of premiums. The insurance required under paragraphs 4.a) i), and, if applicable, a) iv) will be endorsed to name the Sargent Parties identified in paragraph 5 below as additional insureds. Instead of certificates of insurance evidencing the insurance required under paragraphs 4a) i) and 4a) iv), Carrier may provide a current written decision, order, or authorization of the FMCSA evidencing Carrier's authority to self-insure for such coverage. Carriers will provide copies of insurance policies required under this agreement if requested by Sargent.
- c) Carrier's insurance will be deemed primary in the event of loss or damage. Carrier waives all rights of recovery against Sargent Parties to the extent any losses, claims or damages are i) covered by any policy of insurance available to Carrier and/or ii) not covered by Carrier's insurance because of deductibles, the inadequacy of policy limits, policy limitations or exclusions, or failure to maintain or preserve coverage as required by this Agreement or by policy terms.
- d) Sargent reserves the right to cancel this Agreement immediately upon receipt of notice of termination or suspension of any required insurance coverage.

#### **5. INDEMNITY**

Carrier will indemnify, hold harmless and defend Sargent and its affiliates and their respective directors, officers, employees, customers and agents ("Sargent Parties") against all claims, suits, losses, fines, penalties, forfeitures, damages, judgments, reasonable attorney fees and related litigation costs to the extent arising from the negligence, breach, performance or non-performance of this Agreement, by Carrier or its affiliates, and their respective directors, officers, employees and agents.

#### **6. FORCE MAJEURE**

Neither party will be liable for failure to perform its obligations under this Agreement if such failure, delay or other omission is caused by strikes or lockouts, acts of God (other than ordinary storms or inclement weather), war, civil disorder, terrorist acts, or compliance with governmental orders.

#### **7. TERM AND TERMINATION**

This Agreement will begin as of the effective date set forth above and will remain in full force and effect thereafter unless terminated by either party upon thirty (30) days' prior written notice to the other party.

#### **8. DISPUTE RESOLUTION; GOVERNING LAW**

- a) In the event of a dispute between the parties about the interpretation of this Agreement or the performance of either party, before commencing any formal legal action or proceeding, each party will appoint a senior official for the purpose of resolving the dispute without a formal action or proceeding. If the dispute is not resolved through negotiation, then either party may seek any available remedy, including legal remedies.
- b) This Agreement will be construed in accordance with the laws of the State of Maine exclusively, without reference to the laws

of any other state or country, subject to the laws, rules or regulations of the United States to the extent applicable. The parties consent and agree to the exclusive jurisdiction of the federal and/or state courts of California in any action brought under this Agreement and that any such court will be an appropriate forum for such action.

- c) The prevailing party in any action or proceeding to enforce this Agreement or any of its terms will be entitled to reasonable attorneys' fees and costs in addition to the other relief awarded. For purposes of this paragraph, the "prevailing party" will be the party to which costs are awarded.

**9. ENTIRE AGREEMENT; SCOPE OF AGREEMENT**

- a) This Agreement, the Order Notification and Rate Schedule, and any written attachments or exhibits to either will constitute the entire agreement between Sargent and Carrier and supersede and replace all prior agreements between the parties. This Agreement may not be supplemented, amended or modified except by written agreement signed by authorized representatives of both parties.
- b) Any conflicting terms of any bill of lading or other form of freight receipt or contract for shipment are expressly superseded by the terms of this Agreement.
- c) Pursuant to 49 U.S.C. §14101(b)(1), SARGENT and Carrier waive any rights and remedies specified in 49 U.S.C. Subtitle IV, Part B, except for provisions governing registration, insurance or safety fitness.

**10. NOTICES**

Unless otherwise provided, notices required by this Agreement may be given in writing addressed as set forth below. Notices will be deemed given on the date of delivery, if delivered personally or by facsimile or e-mail, or on the third day after the date of mailing, if delivered by first-class mail. Contact information for notices may be changed by giving notice of the change as provided in this paragraph.

**11. CONFIDENTIALITY**

Each party will keep the contents of this Agreement and all information pertaining to the other party, its business operations, and its customers strictly confidential unless disclosure is required by law or judicial process or unless such information is publicly known or obtained by the disclosing party without breaching any confidentiality agreement. The obligations of this paragraph survive termination of the Agreement.

**Sargent Trucking Inc.**

**(Carrier Company Name)**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Sargent Trucking Inc.  
PO Box 600  
Mars Hill, Maine 04758  
Phone: (207) 429-8106 FAX: (207) 429-8470

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

