



-YOUR SUCCESS DRIVES US-

**Corporate Office:** Dawn Transportation Inc (DTI)

 PO Box 712

 Battle Ground, WA 98604

**Phone:** 360-686-1170

**Fax:** 360-686-8494

**After Hours:** 360-608-6179 Ron

 360-798-1025 Logan

**Email:** Dispatch@DawnTransportation.com

Ron@DawnTransportation.com

 Logan@DawnTransportation.com

 Stacey@Dawntransportation.com

**Trillian Messenger:** *Please add us in your Trillian Instant Messenger.*

*We post loads hourly.*

rondti

logan913

**Billing Contact:** Stacey@DawnTransportation.com

**Federal Tax ID:** 91-1993602

**MC#:** 373714

***\*Please sign all load confirmations sent to you and fax/email back to DTI to confirm you understand all load requirements.\****

*Dawn Transportation*

*New Carrier Set Up*

Please fax, email, or mail the following documents to us at your earliest convenience. DTI carrier files must be complete and current before payment checks can be mailed. Failure to respond may result in payment delays.

* **Federal Tax Identification Number (Form W9)**
* **Valid ICC or US DOT Authority**
* **Certificate of Insurance with Dawn Transportation Inc as certificate holder for liability and cargo.**
* **Signed Carrier Agreements (see attached)**

Thank you for your prompt assistance. If you have any questions, please give us a call.

Dawn Transportation Inc

360-686-1170

CARRIER INFORMATION

COMPANY NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMPANY ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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COMPANY OWNER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**MAILING ADDRESS: WHERE DO YOU WANT YOUR CHECKS SENT?**

SAME AS ABOVE FACTORING COMPANY 

MAILING ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FAX NUMBER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­

CELL: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EMAIL: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BILLING CONTACT / PHONE NUMBER / EMAIL: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**TYPE OF TRUCKS:**

 HOPPER  BELTS  WALKING FLOORS  END DUMPS

 FLATBEDS  VANS  PNEUMATICS

LOAD CONFIRMATION AGREEMENT

 DTI pays on Actual weight hauled, most of the time being Destination. Origin and Destination weight tickets must accompany billing. Failure to do so may result in partial or NO payment.

* ***TRAILER CLEANLINESS:*** Carriers are responsible for maintaining proper trailer cleanliness. Trailer must be washed out prior to loading. You must be able to produce a washout slip prior to loading. All ***ORGANIC*** loads must have washout prior to loading.
* ***SUFFICIENT HOURS FOR DELIVERY:*** The carrier agrees that it will assign drivers to deliver the freight who have sufficient hours or service in order to comply with application federal hours of service regulations. YOU MUST NOTIFY DTI if hours are not available to deliver on time or $100.00 deduction per day will apply.
* A ***DAIRYMANS SIGNATURE*** MUST BE SIGNED ON BOL when delivered and sent to DTI. No signature no payment.

**Credit and Billing Terms:**

* $100.00 may be deducted for carrier ay for any day in which check ins are not received by 9:00 am the following day. $100.00 may be deducted from carrier pay for late pick-up or late delivery without notification to DTI.
* Carrier will be paid from actual weight receipts not estimated tonnage.
* In order to get paid, you must submit invoices together with original bills of lading, weights slips at origin and destination. Invoices will be paid within 45 days of receipt of required documentation. A 1% daily fee of total load may apply for delivery documentation not received within 15 days.
* Please accompany all invoices with signed original bills of lading. Including weight slips of Origin/Destination. Bills unsigned and /or missing stamped weight slips clearly showing date and time will not be approved for payment.
* **CARRIERS CAN FAX OR EMAIL THEIR INVOICES AND WEIGHT SLIPS TO Nikki AT Nikki@DAWNTRANSPORTATION.COM THEN SEND ORIGINALS IN MAIL TO DTI PO BOX 712 BATTLE GROUND, WA 98604**
* Information furnished by DTI verbally or in writing, including, but not limited to Pick up and delivery times, dates, special handling requirements, bracing, blocking, dimensions and weights, are shipper specifications provided for informational purposes only, and carrier assumes full and exclusive responsibility for the means and manner of conduct and performance of its drivers.
* Carrier agrees that is will not broker, subcontract, assign or interline shipments hereunder without the prior written consent of DTI. In the event of a violation of this term, DTI has the right to pay the delivering carrier in lieu of paying CARRIER. In addition, CARRIER shall be liable to DTI for all consequential damages, including, but not limited to reasonable attorney fees.
* This load/rate confirmation is inclusive of all charges and supersedes any tariff or schedule of rates of the carrier.
* The rates shown hereon are controlling and no other rates or charges are applicable.
* The terms of the Broker/Carrier agreement signed by the parties are incorporated herein.

***\*\*Sign and return by mail/fax/email a copy to this to confirm to DTI indicating you’re in agreement with these terms. Drivers will not be dispatched until this load/rate confirmation is received.\*\****

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 Carrier Company Name Date

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signed by Title

BROKER / MOTOR CARRIER AGREEMENT

DAWN TRANSPORTATION, INC.

PO BOX 712 Battle Ground, WA 98604

Phone: 360-686-1170 / Fax: 360-686-8494

THIS AGREEMENT is entered into this day of , 20\_\_, by and between DAWN TRANSPORTATION, INC. ("BROKER"), a Registered Property Broker, Lic. No. MC-373714, and , a Registered Motor Carrier, D.O.T. Permit/Certificate No. ("CARRIER"); collectively the "Parties". ("Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration or its predecessor agencies, within the U.S. Department of Transportation.)

A. CARRIER REPRESENTS AND WARRANTS THAT IT:

 1) Is a Registered Motor Carrier of Property authorized to provide transportation of property under contracts with shippers and receivers and/or brokers of general commodities;

 2) Shall transport the property, subject to the terms of this Agreement;

 3) Makes the representations herein for the purpose of inducing BROKER to enter into this Agreement;

 4) Has and will maintain cargo, personal injury, public liability, motor vehicle liability (including but not limited to hired and non-owned motor vehicles), insurance as described below, which covers the risks referred to herein;

 5) Will not insert, nor authorize a SHIPPER to insert BROKER'S name on a bill of lading as the SHIPPER or CARRIER without BROKER's express written consent;

 6) Has authorized the person signing this Agreement to do so;

 7) Will not assign, re-broker, subcontract, interline with any other motor carrier, or by substituted service with any railroad or other modes of transportation, or warehouse the shipments hereunder, without prior written consent of BROKER; If CARRIER breaches this provision, BROKER shall have the right of paying the money 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. A11, CARRIER shall be liable for consequential damages for violation of this provision. “Delivering Carrier” means the carrier that physically transported the freight;

 8) (i) Is in, and shall maintain compliance during the term of this Agreement, with all applicable federal, state and local laws relating to the provision of its services including, but not limited to: owner/operator lease regulations; loading and securement of freight regulations; implementation, maintenance of driver safety regulations including, but not limited to, hiring, controlled substances, and hours of service regulations; sanitation, and temperature requirements for transporting food and other perishable products; qualification, licensing and training of drivers, including hazardous materials shipments; implementation, and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers; all applicable insurance laws (including but not limited to), workers’ compensation laws and regulations;

 (ii) Is solely responsible for any and all management, governing, discipline, direction and control of its employees, owner/operators, and equipment with respect to operating within all applicable federal and state legal and regulatory requirements to ensure the safe operation of CARRIERS vehicles, drivers and facilities. CARRIER and BROKER agree that safe and legal operation of the CARRIER and its drivers shall completely and without question govern and supersede any service requests, demands, preferences , instructions, information from BROKER or BROKER’s customer(s) with respect to any shipment at any time;

 9) Carrier agrees that at no time during the term of its contract with BROKER shall it have an “Unsatisfactory” safety rating as determined by the Federal Motor Carrier Safety Administration (FMCSA); nor is it subject to any investigation or disciplinary action by any state or federal agency related to enforcement of safety laws and regulations. If Carrier receives an “Unsatisfactory”safety rating, or a rating is changed from “Satisfactory” to “ Conditional”, it shall immediately notify BROKER and shall not transport any shipment hereunder without Brokers prior written consent. The provisions of this paragraph are intended to include safety rating designations which may replace those above, which are subject to change by FMCSA at any time;

 10) Will notify BROKER immediately if: CARRIER’s federal Operating Authority is threatened to be or is revoked, suspended or rendered inactive for any reason; and/or if CARRIER is sold, or if there is a change in control of CARRIER; and/or any of its insurance required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason;

 11) Will defend, indemnify, and hold BROKER and its customers harmless and pay BROKER on demand from any claims, losses, damages, fines, or liability of any kind for damage to freight, personal injury, death, and/or property damage (including, but not limited to, reasonable attorney's fees) arising out of CARRIER’s performance of, or violation of, any of the terms of this Agreement;

 12) Shall comply with all applicable laws and regulations relating to the transportation of Hazardous Materials as defined in 49 C.F.R.§ 172.800, §173, and §397, et seq. (including any amendments) to the extent that any shipments hereunder constitute Hazardous Materials. CARRIER shall be solely responsible for any violation of the applicable laws and regulations, and shall defend, indemnify, and hold BROKER and its customers harmless and pay BROKER on demand from any claims, losses, damages or liability incurred, including, but not limited to reasonable attorney’s fees arising from any non-compliance;

 13) Expressly authorizes BROKER to accept payment from shippers (or others obligated to pay) for CARRIER’s services, and waives all rights to collection from shippers (or others obligated to pay) for those services;

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

B. BROKER RESPONSIBILITIES:

 1. 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) if applicable, any time- or temperature-sensitivity instructions or special equipment requirements provided BROKER has timely received such information from SHIPPER.

 2. BROKER agrees to conduct all billing services to shippers. CARRIER shall invoice BROKER for its (CARRIER) charges, as mutually agreed in writing or by fax, contained in BROKER's Rate Confirmation Sheet(s) incorporated herein by reference. Additional rates for truckload or LTL shipments, or modifications 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 (or by fax) by both Parties. Any such changes in rates shall automatically be incorporated herein by reference. CARRIER's schedule of rates and charges shall be provided by CARRIER to BROKER in writing (fax or mail) upon BROKER’s request, and shall include all rates, classifications, rules and practices upon which any rate applicable to the shipments transported under this Agreement, is based, and no part thereof shall be amended, modified or changed to affect agreed upon rates without mutual written consent of the Parties.

 3. RATES: Additionally, any rates, which may be verbally agreed upon, shall be deemed confirmed in writing where CARRIER has billed the agreed rate and BROKER has paid it. All written confirmations of rates, including confirmations by billing and payment, shall be incorporated herein by this reference. Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, tariff rates, released rates or values, or tariff rules or circulars, shall only be valid when their terms are specifically agreed to in a writing signed by both Parties.

 4. PAYMENT: (a) BROKER agrees to pay CARRIER for its services rendered hereunder, upon written receipt of proof of delivery (bill of lading or delivery receipt) and freight bill, in accordance with the rates set forth above, or as otherwise agreed in writing, within thirty (30) days of receipt of CARRIER's invoice, provided invoice and other required documentation is received not later than fifteen (15) days after date of delivery, or scheduled date of delivery of the freight whichever is earlier. CARRIER expressly waives its right to collection for failure to deliver timely invoicing and other required documentation within the fifteen (15) day period. Arbitration action for alleged nonpayment for CARRIER services hereunder must be commenced within one year of date of delivery or scheduled date of delivery whichever is earlier in order to avoid being permanently barred. Upon receipt of payment of any amounts by CARRIER arising out of this Agreement, CARRIER automatically assigns all of its rights to payment from shippers, consignees, or third parties to BROKER.

 (b) Except when delivery of freight is rejected by consignee(s), and stored/warehoused at direction or approval of BROKER or shipper, CARRIER shall neither have nor claim any lien rights against freight transported under this Agreement. Liens for storage/warehousing shall be limited to the freight subject of the lien. CARRIER’s lien rights shall be released and are automatically assigned to BROKER, upon receipt of payment by CARRIER or warehouse for any such storage/warehousing.

 5. BROKER’s responsibility is limited to arranging for but not actually transporting shipper’s freight.

 6. BOND: BROKER shall maintain a surety bond /trust fund as agreed to in the amount of $10,000 and on file with the Federal Motor Carrier Safety Administration (FMCSA) in the form and amount not less than that required by that agency’s regulations.

C. CARRIER RESPONSIBILITIES:

 1. EQUIPMENT: Subject to its representations and warranties in Paragraph A 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 provide equipment which has been used to transport hazardous wastes, solid or liquid, regardless of whether they meet the definition in 40 CFR Appx. VII and VIII, Part 261 et seq. CARRIER agrees that all shipments will be transported and delivered with reasonable dispatch, or as otherwise agreed, in writing.

 2. BILLS OF LADING: CARRIER shall sign a bill of lading produced by shipper or carrier, in compliance with 49 CFR 373.101 ( and any amendments thereto) for the property it receives 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 a bill of lading has been issued, and/or signed, and/or delivered to CARRIER, and which responsibility/liability continues until delivery to consignee at destination, and consignee signs bill of lading or delivery receipt and delivers it to CARRIER. All signed delivery receipts and/or bills of lading shall be sent to BROKER within 24 hours of pick-up or delivery. Any terms of the bill of lading 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 CARRIER.

 3. LOSS & DAMAGE CLAIMS:

 a) CARRIER shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations issued or adopted by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, for processing all loss and damage claims and salvage, which arise out of the discharge of CARRIER's duties and responsibilities hereunder; and

 b) CARRIER's liability for any freight damage, loss, or theft from any cause (regardless of the type of operating authority it has) shall be determined under the Carmack Amendment, 49 U.S.C. §14706; and

 c) Special Damages: Any liability of CARRIER under Pars. A11 and 12 which may exceed damages under Par (b) above shall constitute special damages, the risk of which is expressly assumed by CARRIER, and which shall not be limited by any liability under Subp. (b) above; and

 d) CARRIER assumes all risk of loss and shall indemnify and hold BROKER harmless from any liability arising out of violation of Par. A (7), including consequential damages, costs, expenses and reasonable attorney fees. At BROKER’s sole option and not in limitation of any other remedy hereunder, BROKER may pay directly the delivering carrier in lieu of payment to CARRIER; and

 e) In order to avoid being permanently barred, claims for freight loss or damage must be delivered in writing to CARRIER within 60 days of date of loss; and

 f) Except as provided in Subp. 3(d) above, neither Party shall be liable to the other for consequential damages without prior written notification of the risk of loss and its approximate financial amount, and agreement to assume such responsibility in writing; and

 g) Notwithstanding the terms of 49 CFR §370.9,CARRIER shall pay, decline or make settlement offer in writing on all cargo loss or damage claims within 90 days of receipt of the claim. Failure of CARRIER to pay, decline or offer settlement within this 90 day period shall be deemed admission by CARRIER of full liability for the amount claimed and a material breach of this Agreement; and

 h) CARRIER’s liability for cargo damage, loss, or theft from any cause for any one shipment, under Subp. 3(d) above, shall be for the full invoice value of the goods/property/freight for which is sold. For goods/property/freight not sold it shall be for the shipper invoice cost.

 4. 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: General liability $1,000,000; motor vehicle (including hired and non-owned vehicles) $1,000,000 ($5,000,000 if transporting hazardous materials including environmental damages due to release or discharge of hazardous substances); cargo damage/loss, $100,000; 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 Carrier Safety Administration and any other applicable regulatory state agency. Nothing in this Agreement shall be construed to avoid or limit CARRIER’s liability due to any exclusion or deductible in any insurance policy. Coverage provided CARRIER’s insurance policies shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to loss and damage claims. CARRIER grants permission to BROKER, and shall require its insurance underwriters and agents, to provide BROKER upon BROKER’s request a copy of all insurance policies including copies of all exclusions on any cargo policy. The cargo insurance policy shall not exclude coverage for infidelity, fraud, dishonesty, or criminal acts of CARRIER, its employees, officers and directors, contractors, subcontractors, owner-operators, or agents of CARRIER. If any such policy contains those exclusions, CARRIER shall obtain and furnish endorsements in the policy providing coverage to the satisfaction of BROKER. No policy of insurance provided to BROKER hereunder shall have a deductible greater than $5,000.

 5. 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 of its freight charges from BROKER.

 6. CARRIER assumes full responsibility and liability for payment of the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, old age pensions, workers’ compensation, and social security, with respect to persons engaged in the performance of its transportation services hereunder. BROKER shall not be liable for any of the payroll-related tax obligations specified above, and CARRIER shall indemnify, defend, and hold BROKER harmless from any claim or liability imposed or asserted against BROKER for any such obligations.

D. MISCELLANEOUS:

 1. INDEPENDENT CONTRACTOR: It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor. None of the terms of this Agreement, or any act or omission of either Party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between the Parties. CARRIER shall provide the sole supervision and shall have exclusive control over the operations of its employees, contractors, subcontractors, agents, as well as all vehicles and equipment used to perform its transportation services hereunder. BROKER has no right to discipline or direct the performance of any driver and/or employees, contractors, subcontractors, or agents of CARRIER. CARRIER represents and agrees that at no time and for no purpose shall it represent to any party that it is anything other than an independent contractor in its relationship to BROKER.

 2. 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.

 3. WAIVER OF PROVISIONS:

 a) 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.

 b) 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 and remedies they may have under the Act.

 4. DEFAULT: In the event of a material breach by CARRIER of any provisions of this Agreement, BROKER shall have the right to withhold and/or set off any payments owing to CARRIER and/or received from shippers which BROKER is obligated to pay CARRIER. BROKER’s set-off rights include (but are not limited to) the amount of any freight damage, loss or theft claims arising out of the transportation of freight under this Agreement by CARRIER, and which are asserted against BROKER by shippers, consignees and/or their assignees and /or subrogees. The right of withholding and/or setoff is not an exclusive remedy and BROKER shall have and may exercise, subject to Paragraph 5 below, all other remedies it may have at law or in equity against CARRIER.

 5. DISPUTES: In the event of a dispute arising out of this Agreement, the party's recourse shall be (except as provided below); to litigation in Court at BROKERS sole discretion, or arbitration under the rules of the Transportation ADR Council, Inc. (ADR); or Transportation, Arbitration and Mediation PLLC (TAM) at BROKER’s sole discretion. Upon agreement of the Parties, arbitration proceedings may be conducted outside of the administrative control of ADR or TAM. The decision of the arbitrators shall be binding and final and the award of the arbitrator may be entered as judgment in any court of competent jurisdiction. The prevailing party (in litigation or arbitration ) shall be entitled to recovery of costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken by way of appeal or to enforce the award of arbitrators. Arbitration proceedings shall be conducted or at the office of the ADR or TAM in Washington State, or such other place as mutually agreed upon in writing or directed by the acting arbitration association. Upon agreement of the Parties and the arbitration hearings may be conducted telephonically or by video conferencing. Provided, however, either Party may apply to a court of competent jurisdiction for injunctive relief. Unless preempted or controlled by federal law and regulations, in either arbitration or litigation, the laws of the State of Washington shall be controlling except for conflicts of laws rules which would require a different result. Venue of any litigation action shall be in Washington State. This paragraph shall not apply to enforcement of the award of arbitration

 6. BROKER-CUSTOMER PROTECTION: CARRIER shall not directly or indirectly solicit, divert, back-solicit or perform any freight transportation (with or without compensation) for any customer of BROKER, when such customer(s) was serviced as a result of this Agreement. Transportation of freight hereunder by CARRIER, shall be deemed conclusive evidence of CARRIER’s transportation service to BROKER’s customers. In the event of breach of this provision, BROKER shall be entitled, for a period of eighteen (18) months following said breach to a commission of twenty percent (20%) of the transportation revenue (as evidenced by freight bills) received by CARRIER for the transportation of said freight as liquidated damages, and at Brokers discretion, CARRIER shall waive the right to collect any unpaid freight bills owed by BROKER to CARRIER as of date of the breach. Additionally, BROKER may seek injunctive relief in which case, CARRIER shall be liable for all costs and expenses incurred by BROKER related thereto, including, but not limited to, reasonable attorney's fees.

7. CONFIDENTIALITY:

 a) During the term of this Agreement and thereafter, the Parties shall not directly or indirectly disclose to anyone, or use for its own, or anyone else’s benefit, Confidential Information as defined herein. For purposes of this Agreement,“Confidential Information" shall mean information of the BROKER which includes but is not limited to business and/or marketing and sales plans, trade secrets, customer names, customer contacts, personal customer information, customer shipping or other logistics requirements, and all pricing information related to BROKER and BROKER’s customers. Confidential Information may be disclosed to CARRIER either orally, visually or in tangible form (whether by document, electronic media, or other form). The failure of either Party to mark, label or identify any of the above-described information as Confidential shall not affect its status as part of the Confidential Information protected by this Agreement.

 b) In the event of violation of this clause, CARRIER acknowledges and agrees that the remedy at law, including monetary damages, may be inadequate and that BROKER shall be entitled, in addition to any other remedy it may have, to an injunction restraining CARRIER from violation of this Agreement in which case CARRIER shall be liable for all costs and expenses incurred by BROKER related thereto, including, but not limited to, reasonable attorney's fees.

 c) In addition to the remedy set forth in Subparagraph (b) above, BROKER shall have the right in its sole discretion to immediately terminate this Agreement (with or without prior notice) and recover and/or withhold 20% of the transportation revenue paid (during the eighteen (18) months immediately preceding termination) and/or owing to CARRIER under this Agreement (as evidenced by CARRIER’s freight bills) as liquidated damages (and not as a penalty) for breach hereof.

 8. MODIFICATION OF AGREEMENT: This Agreement and the rate schedules attached may not be amended, except by mutual written agreement, or the procedures set forth above (Paragraphs B2 and B3).

 9. NOTICES:

 a) All notices provided or required by this Agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax or by courier with signed delivery receipt.

 b) The PARTIES shall notify each other, in writing of any claim that is asserted against either of them, by anyone, arising out of this Agreement immediately.

 10. CONTRACT TERM:

 a) The term of this Agreement shall be for one (1) year from the date shown above and thereafter it shall automatically be renewed for successive one year periods, unless terminated upon 30 days prior written notice with or without cause, by either party at any time, including the initial term. In the event of such termination, the Parties shall be obligated to complete their performance obligations to each other for unfinished work in process and related payments.

 b) BROKER may additionally terminate this Agreement immediately upon written notice by fax, email, or courier in any of the following events:

 1) CARRIER loses its operating authority or otherwise becomes disqualified to perform its obligations under this Agreement;

 2) CARRIER breaches any covenant, obligation, condition or requirement imposed upon it by this Agreement, and such breach continues for a period of ten (10) days after written notice thereof from BROKER to CARRIER;

 3) CARRIER becomes insolvent, files (voluntarily or involuntarily) for bankruptcy or receivership protection, or becomes unable to pay its debts in a timely manner; or

 4) CARRIER utilizes the services of any brokers or subcontracts transportation of freight tendered by BROKER hereunder to any third-party motor carrier or other transportation provider or utilizes a third-party logistics provider to perform its obligations under this Agreement without prior written consent of BROKER.

 11. SEVERANCE: SURVIVAL: 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, rights and obligations of the Parties hereunder shall survive termination of this Agreement for any reason.

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

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

 14. FORCE MAJEURE. In the event that either Party is prevented from performing its obligations under this Agreement because of an occurrence beyond its control and arising without its fault or negligence, including without limitation, war, riots, rebellion, acts of God, acts of lawful authorities, fire, strikes, lockouts or other labor disputes, such failures to perform (except for any payments due hereunder) shall be excused for the duration of such occurrence. Economic hardships, including, but not limited to, recession and depression, shall not constitute Force Majeure events.

 15. ENTIRE AGREEMENT: Except for Rate Confirmation Sheet(s) and unless otherwise agreed in writing, this Agreement contains the entire understanding of the Parties and supersedes all verbal or 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, and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding.

IN WITNESS WHEREOF, we acknowledge receipt of all six pages of this Agreement and have signed this Agreement the date and year first shown above.

 DAWN TRANSPORTATION, INC. Ron Ballensky ­ Ron Ballensky\_\_\_\_\_\_\_\_\_\_\_

 Company Name Authorized Signature Print Name

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Carrier Company Name Authorized Signature Print Name

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