

TRANSIT GROUP, LLC

11159 Ridge Road, Medina NY 14103, MC 882681
Stephen Dunn 585-590-7002

MOTOR CARRIER/SHIPPER AGREEMENT

Shippers Name: _____

Address: _____

City, St, Zip: _____

Date of Agreement: _____

Federal ID Number: _____

THIS MOTOR CARRIER/SHIPPER AGREEMENT (this "Agreement"), is made and entered into as of the date of this agreement, by and between TRANSIT GROUP, LLC, 11159 Ridge Road, Medina NY 14103, MC 882681 ("Carrier"), and the Shipper listed above ("Shipper"). Shipper and Carrier are sometimes individually referred to herein as a "Party" and together as the "Parties."

WHEREAS, Shipper desires to hire Carrier to perform motor carrier transportation service for Shipper in accordance with the terms and subject to the conditions of this Agreement; and

WHEREAS, Carrier desires to perform motor carrier transportation service for Shipper in accordance with the terms and subject to the conditions of this Agreement;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual agreements and provisions hereinafter set forth, the Parties hereby mutually agree as follows:

1. Term. This Agreement shall remain in full force and effect for a one (1) year period beginning on the date first written above and continuing thereafter on a year-to-year basis.
2. Scope of Agreement. Carrier is a motor carrier under 49 U.S.C. 13102(12), is duly registered with the Department of Transportation pursuant to 49 U.S.C. 13902 and 13905, and will provide lawful

and responsible transportation service to Shipper under contract. Shipper will tender Carrier freight for transportation. Carrier shall be an independent contractor of Shipper. As between the Parties, Carrier shall have the sole and exclusive responsibility for the costs and over the manner in which its employees and/or independent contractors perform the transportation service, including the equipment provided.

3. Rates, Charges, and Payment Terms. (a) Shipper shall pay Carrier, within 30 days of the shipment date shown on the invoice, the amounts calculated in accordance with the schedule of rates and charges attached hereto as Appendix B, including any written supplements thereto, and as otherwise set forth in this Agreement. No offsets may be taken against invoiced charges. Carrier shall apply Shipper's payment to the amount due for the specified invoice, regardless whether there are earlier unpaid invoices. Carrier may assess a service charge of 1.5% per month for any delayed payments.
4. On billings to third parties, Shipper, as the contracting party with Carrier, will be responsible for all freight and related charges for transportation under this Agreement. As an accommodation to Shipper, Carrier shall bill a third party upon notice on the freight documentation the Parties utilize, but Shipper agrees to guarantee payment and stand as primary debtor.
5. Freight Documentation. The terms and conditions of this Agreement shall prevail over those appearing on any other form(s) used by the Parties for the delivery of freight. Any form(s) used by the Parties shall only be used for the purpose of documenting the pick-up and delivery of freight. Either Party, at its option, may supply any document required by or referenced in this Agreement in either paper or electronic form (including, but not limited to, an electronically imaged, faxed, photocopied, or online posted version), and any such version shall be sufficient for all purposes under this Agreement.
6. Insurance. Carrier shall maintain during the term of this Agreement automobile and property damage liability insurance with limits of liability of not less than \$1,000,000 per occurrence, and cargo insurance to cover damage to or loss of cargo in the amount of \$100,000 per occurrence. Upon request, Carrier will furnish Shipper with a certificate of insurance from a reputable insurance company evidencing such insurance.
7. Refused Shipment-Warehouseman Liability. If the consignee refuses the lading tendered by Carrier or if Carrier is unable to deliver the lading because of fault or mistake of Shipper or the consignee, or if Shipper advises and instructs Carrier to stop movement of the lading and to hold it in transit, Carrier's liability thereafter immediately shall be that of a warehouseman. The procedures which Carrier agrees to and will take as a warehouseman involve the use of ordinary care to keep the lading in a safe or suitable place or to store the lading properly. Carrier shall (a) attempt to give Shipper notice as soon as possible if the foregoing occurs, (b) place the lading in public storage, if available, unless Carrier receives contrary disposition instructions from Shipper within twenty-four (24) hours, and (c) if disposition instructions are not given by Shipper within ten (10) days of Carrier's initial notification to Shipper, Carrier may offer the lading for public sale. In the case of perishable lading, Carrier may dispose of the lading at a time and in a manner Carrier deems appropriate. Shipper will be responsible for storage costs and reasonable costs Carrier incurs in acting as a warehouseman. To the extent any sale or disposal revenues exceed the storage costs and the costs Carrier incurs as a warehouseman, Carrier shall remit the balance to Shipper. If Shipper gives Carrier timely disposition instructions, Carrier shall use any commercially reasonable steps to abide with such instructions. Shipper will pay Carrier's costs and any additional transportation costs Carrier incurs in doing so.

8. **Cargo Liability.** Carrier shall not be liable to Shipper for loss or damage to lading occurring if such loss or damage is caused by an act of God or a public enemy, a public authority, an act of Shipper, or the inherent vice or nature of the lading. Carrier's possession of lading under this Agreement shall begin when Carrier has executed the freight documentation form for such lading and shall terminate upon the lading being tendered for delivery to Shipper's consignee.
9. Carrier's monetary liability will be limited to the amount of cargo insurance provided (\$100,000).
10. Claims for loss or damage to lading must be filed in writing by Shipper within ninety (90) days from date of delivery, or scheduled date of delivery for lost lading, or in the absence of a scheduled delivery date, the filing period shall begin after a reasonable time has elapsed for delivery, and a civil suit or arbitration proceeding shall be commenced by Shipper within one (1) year from the date Carrier gives Shipper written notice Carrier is disallowing the claim or any part of it. Claims will be filed and resolved in accordance with federal regulations codified at 49 C.F.R. Part 370.
11. The measure of damages for loss of or physical damage to the cargo shall be the invoice value of the lading, or in the absence of an invoice, wholesale destination value.
12. In no event shall Carrier be liable to Shipper or anyone else for special, incidental, consequential, punitive, or exemplary damages that relate to loss, damage or delay to a shipment.
13. **Sealed Shipment.** If Shipper loads and seals the lading in or on the trailer and Carrier does not have the opportunity to count the lading being loaded and the seal is intact upon delivery, Carrier shall be absolved from any liability for shortages or any damage to the lading. Such absolution of liability will also occur if (i) the seal is broken at the direction and under the supervision of an agent of a body politic, or (ii) trailers are preloaded and the adequacy of loading or count of such trailer is not practical by a representative of Carrier. Carrier agrees that if a seal is broken and an inspection made by an agent of a body politic, its operator or other representative will take all reasonable steps to secure the count, safety, and integrity of the lading. These steps will include requesting that the body politic reseal the trailer and/or make appropriate notation on the freight documentation form. Carrier may break the seal on a trailer if, upon Carrier's determination or that of its operator or other representative, it becomes reasonably necessary to do so to inspect, reposition, or protect the lading or Carrier's equipment or to comply with federal, state, municipal, or provincial laws, rules, and regulations. Shipper's consignee may not refuse delivery of a shipment solely because the seal on a trailer is broken.
14. **Salvage.** Shipper will have the right reasonably to determine to repair, repackage, salvage, or scrap damaged lading. If Shipper elects to salvage lading, Shipper shall notify Carrier to return the lading to Shipper or allow Carrier to dispose of the lading. If salvage is sought, at least two independent bids shall be obtained, and the highest bid accepted. Any monies received in salvage, whether accomplished by Carrier or Shipper, will be credited, if applicable, against any amount Carrier may otherwise be responsible for in terms of the damages. If Carrier is retained by Shipper to return the damaged lading for repair, salvage, or scrapping, Shipper agrees to pay Carrier freight charges otherwise provided in this Agreement, or at a negotiated rate to be reduced to writing, without prejudice to recovery of such freight charges as damages. Damaged lading will not be scrapped unless repair and/or salvage is not feasible. If Carrier salvages the lading, Carrier may bill a reasonable charge for doing so against salvage receipts.

11. Hazardous Materials. Carrier does not accept Hazardous Materials, and Shipper shall not ship any loads that contain Hazardous Materials, as defined in the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq., as amended, and the regulations of the U.S. Department of Transportation made thereunder.
12. Notices. Any notice required or permitted to be given under this Agreement, unless otherwise indicated, shall be deemed sufficiently given if it is delivered by hand or sent by prepaid mail, registered or certified, return receipt requested, by a nationally recognized overnight courier, or facsimile transmission (with confirming copy sent first class mail) if sent to the address or fax number and to the attention of the individual noted in the signatory provision hereof.
13. Successors and Assigns; Other Parties. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
14. Entire Agreement. This Agreement and the attached Appendices constitutes the entire agreement between the Parties hereto and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed, or implied, with respect to the subject matter hereof.
15. Amendments. No amendment or modification of the terms of this Agreement shall be binding unless in writing and signed by the Parties.
16. Severability. Any term or provision of this Agreement that is held to be invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.
17. Waiver. No waiver of any right, power, or privilege hereunder shall be binding upon any Party unless in writing and signed by or on behalf of the Party against which the waiver is asserted.
18. Confidentiality. The Parties shall keep in confidence and not disclose to any third party (a) the terms of this Agreement, and (b) any confidential or proprietary information either learns about the other Party, such as, but not limited to, the rates, value, origin, destination, or consignee of any shipment made hereunder. The Parties may disclose such terms and information to the extent required by law, to obtain financing, to substitute service providers to the extent necessary to provide such substitute service, or to auditors retained for the purpose of assessing the accuracy of freight bills.
19. Compliance with Laws and Regulations. The Parties shall at all times comply with all applicable federal, state, municipal, and provincial laws, rules, and regulations including, but not limited to, the federal and state safety regulations. To the extent this Agreement or any services provided hereunder shall conflict with such laws, rules, and regulations, this Agreement and the services provided hereunder shall be modified to comply with such laws, rules, and regulations, and the Parties shall not be deemed in breach of this Agreement or suffer any liability or penalty for compliance with such laws, rules, and regulations. In the event Carrier, through no fault of its own, is delayed or removed from service by or because of an inspection by any body politic, Carrier shall not be deemed in breach of this Agreement, nor shall it suffer any liability or penalty under the terms of this Agreement.

CARRIER

SHIPPER

TRANSIT GROUP, LLC

Shipper Name: _____

By (Printed name) _____

By (Printed Name): _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

INFORMATION FOR NOTICES

111159 Ridge Road

Address: _____

Medina, New York 14103

FAX: 585-219-5732

Fax: _____

EMAIL: Stephen@ABSBUFFALO.COM

Email: _____

Attention: Stephen C Dunn

Attention: _____

Shipper request 3rd party billing to:

Billing Co Name _____

Address: _____

Phone: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by a duly authorized officer effective as of the date first above written.