

Contract No. _____

MOTOR CARRIER

INDEPENDENT CONTRACTOR OPERATING CONTRACT

THIS INDEPENDENT CONTRACTOR OPERATOR CONTRACT, Including attached Schedules and any addendums ("CONTRACT") is made and entered into between MOTOR CARRIER, a corporation ("MOTOR CARRIER") having its principal office at Anytown, GA and _____, ("CONTRACTOR").

WITNESSETH

In consideration of the mutual promises herein and pursuant to the federal leasing requirements, 49C.F.R. Part 376, MOTOR CARRIER a motor carrier of property registered with the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation ("DOT") (USDOT No. XXXXXXXX), and contractor, the owner operator of certain motor vehicle equipment, agree as follows:

I. EQUIPMENT AND SERVICES FURNISHED A) **Equipment and Services.** Contractor shall, through the use of Contractor's own motor vehicle equipment described in Schedule A attached hereto ("Equipment"), transport freight for MOTOR CARRIER. Contractor shall not perform loading and unloading unless MOTOR CARRIER has directed Contractor to do so, in which case MOTOR CARRIER shall pay Contractor additional compensation, as set forth in Schedule B.

B) **Equipment Receipts.** Upon taking possession of the Equipment, MOTOR CARRIER shall furnish Contractor with a receipt. In the form appended hereto as Schedule A-1, identifying the Equipment and stating the date and time when possession is taken by MOTOR CARRIER. When MOTOR CARRIER surrenders possession of the Equipment to Contractor upon termination of the Contract, Contractor shall furnish a similar receipt to MOTOR CARRIER in the form appended hereto as Schedule A-2, identifying the Equipment and the date and time when possession thereof was returned to Contractor. The receipts required by this Article may be transmitted to the other party by hand, mail, overnight delivery, fax or other means of communication. MOTOR CARRIER shall maintain those records regarding the Equipment required by C.F.R. §376.11(d).

I **II. COMPENSATION**

II A) **Amount of Compensation.** As total compensation for all Equipment leasing and services provided by Contractor, MOTOR CARRIER shall pay Contractor the rates set forth in Schedule B.

B) **Method of Payment.** MOTOR CARRIER shall pay Contractor any compensation due under Schedule B – less any charge-backs and other deductions under Schedule C or D, or other provisions or Schedules of the Contract plus any other amounts owed to Contractor by MOTOR CARRIER – posted up to that time (together referred to throughout this Contract as "Settlement Compensation") either by electronic direct-deposit into Contractor's bank account (Contractor will need to furnish MOTOR CARRIER with a voided check for the bank account) or, if Contractor chooses, by check available for Contractor pick-up at MOTOR CARRIER dispatching terminal. MOTOR CARRIER shall accompany each payment with a statement detailing all settlements since the preceding statement ("Settlement Statement").

C) **Payment Timing.** Payment to Contractor will be made weekly by MOTOR CARRIER on FRIDAY for the settlement period of the PREVIOUS week (Sunday through Saturday) after the Contractor or Contractor's authorized driver has properly completed and submitted to MOTOR CARRIER all driver logs and inspections required by the DOT and those documents necessary for MOTOR CARRIER to secure payment from the shipper, including bill of lading signed by consignee (provided that Contractor need not submit a bill of lading to which no exceptions have been taken), freight bill, detention ticket signed by consignee and filled out with cause of delay and specific times in and out, and detention ticket with authority-to-unload-section signed by consignee, scale tickets, authorized toll receipts, and any specific documents required by the shipper (together referred to as "Trip Documents").

III. DURATION AND RENEWAL

Subject to Article XXI, this contract shall commence at the date and time indicated on the receipt MOTOR CARRIER gives Contractor upon taking possession of the Equipment following the signing of this Contract by both parties and continue for twelve 12 months from such date. This contract shall be automatically renewed for succeeding terms of one (1) year unless: (A) either party shall, at least thirty (30) days prior to the expiration of any term; give written notice of the party's intention not to renew the Contract; or (B) this Contract is terminated pursuant to Article XXI.

I **III. RELATIONSHIP OF PARTIES**

A) Independent Contractor Relationship. 1. The parties intend to create by this Contract a relationship of company and independent contractor, and not a relationship of employer and employee. Any contrary final determination by any board, tribunal, or court of competent jurisdiction shall require the amendment of this Contract in any way necessary to establish an independent contractor relationship. As an independent contractor, Contractor has the right to operate the business as Contractor chooses, and shall bear all risks and costs of operating such business.

2. This relationship is intended as a cooperative business relationship between MOTOR CARRIER and Contractor, satisfying the needs and requirements of MOTOR CARRIER's customers. Neither Contractor nor Contractor's agents, servants, or employees are to be considered employees of MOTOR CARRIER at any time for any purpose. Neither party to the Contract is the agent of the other, and neither party shall have the right to bind the other by contract or otherwise, except as specifically provided herein. Contractor has no authority to retain any person on behalf of MOTOR CARRIER.

3. Contractor has no claim, or right, under any circumstances to any benefits or compensation currently paid by MOTOR CARRIER to employees or hereafter declared by MOTOR CARRIER for the benefit of employees. No fiduciary relationship exists between the parties.

4. The Equipment shall conspicuously state that it is "Leased to MOTOR CARRIER"

B) Exclusive Possession, Use, and Control. MOTOR CARRIER shall have exclusive possession, control, and use of the Equipment, and shall assume complete responsibility for the operation of the Equipment for the duration of the Contract. Subject to the preceding sentence, Contractor shall be responsible for controlling the method and means by which the Equipment is operated. No agent, servant or employee of MOTOR CARRIER shall exert or attempt to exert control or authority over the Equipment except to the extent required by law. The foregoing declarations are made in order to comply with Federal Motor Carrier Safety Administration ("FMCSA") regulations (49 C.F.R. § 376.12(c)(1)) and shall not be used to classify Contractor as an employee of MOTOR CARRIER. As 49 C.F.R. § 376.12 (c)(4) provides, nothing in the provisions required by (49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor and drivers are independent contractors or employees of MOTOR CARRIER and "an independent contractor relationship may exist when a carrier lessee complies with 49 U.S.C. § 14102 and attendant administrative requirements."

C) Subleasing of Equipment. Contractor may operate the Equipment for another motor carrier during this contract with notification to MOTOR CARRIER. MOTOR CARRIER shall not sublease the Equipment to another. Any sublease shall state that the sub lessee-carrier shall have exclusive possession, control, and use of the Equipment, and shall assume complete responsibility for the operation of the Equipment, for the duration of the sublease. Contractor shall cover or remove all MOTOR CARRIER identification from the Equipment when it is being used in connection with any sublease. Contractor will pay for any replacements of lost or damaged items of MOTOR CARRIER identification.

C) Subject to the conditions herein, Contractor may reject any move offered to Contractor by MOTOR CARRIER, and MOTOR CARRIER does not guarantee any minimum volume of business, revenue, or trips will be available to Contractor during the term of this Contract.

I V. CONTRACTOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS

A) Owner. Contractor represents and warrants that Contractor is the "owner" of the Equipment within the meaning of 49 C.F.R. § 376.2(d) and has full authority to contract the Equipment and services to MOTOR CARRIER. Contractor warrants that Contractor is not and will not be in default on and shall make all required payments with respect to, any loans secured by the Equipment. Contractor further warrants that the Equipment shall be (1) in safe mechanical and operating condition, free of defects, latent or otherwise, (2) properly licensed, and (3) in full compliance with the motor carrier safety regulations of the FMCSA and the United States Department of Transportation ("DOT") and all other applicable laws, regulations, and ordinances of federal, state, or municipal authorities having jurisdiction throughout the term of the Contract.

B) Licensed Drivers. Contractor further warrants and represents that the driver(s) Contractor supplies to perform services under this Contract shall be properly licensed and qualified by MOTOR CARRIER and under all applicable laws, regulations, and ordinances throughout the period during which they are performing services under this Contract.

C) Medical Examination. Contractor acknowledges that DOT requires all drivers to undergo a complete medical examination prior to being allowed to drive, in any capacity whatsoever, in MOTOR CARRIER's motor carrier services. Such examination shall be performed by physicians approved by MOTOR CARRIER and shall include required testing for controlled substances. Drivers may be required to undergo follow-up examinations, from time to time, in accordance with the requirements of 49 C.F.R. §§ 391.41 *et seq.* Additionally, if in the judgment of MOTOR CARRIER a further medical examination appears warranted, such examinations shall be undergone. MOTOR CARRIER shall bear the cost of all medical examinations.

D) Drug and Alcohol Testing. Contractor and Contractor's drivers shall, as required by 49 C.F.R. § 382.103, comply with MOTOR CARRIER's Drug and Alcohol Policy, including participation in MOTOR CARRIER's random drug and alcohol testing program, and any addendums or revisions thereto. This Contract shall terminate immediately in the event Contractor or Contractor's driver violates MOTOR CARRIER's Drug and Alcohol Policy, or tests positive for drugs or alcohol. MOTOR CARRIER shall bear the cost of all drug and alcohol tests.

E) Non-Conformance. If at any time during the term of this Contract the Equipment or the driver(s) performing services for Contractor, should cease to conform to the foregoing representations and warranties, Contractor agrees that Contractor shall immediately notify MOTOR CARRIER of any such occurrence and shall immediately withdraw the Equipment or driver(s) from service until such time as the deficiencies have been corrected to the satisfaction of MOTOR CARRIER. MOTOR CARRIER shall have the right to disqualify any driver provided by Contractor in the event the driver is found to be unsafe, unqualified pursuant to federal or state law, in violation of MOTOR CARRIER's minimum qualification standards, in which case Contractor shall be obligated to furnish another reliable and qualified driver that meets the minimum qualification standards set forth by MOTOR CARRIER.

F) Prompt, Safe, Lawful Moves. Contractor shall complete any move accepted hereunder in a prompt, safe, and lawful manner.

I **VI. OPERATING AND MAINTENANCE EXPENSES 1. Wages and Benefits** of Contractor's Workers. All wages and other payments due by reason of Contractor's employment of an authorized driver or other laborer, employee, or agent including, without limitation, all costs of bobtail and worker's compensation insurance and all payroll taxes (including, but not limited to, withholding taxes, social security taxes, and unemployment taxes).

II **2. Maintenance and Repairs.** All expenses of repairing and maintaining the Equipment in safe mechanical and operating condition and in full compliance with the motor carrier safety regulations of the FMCSA and all other applicable laws, regulations, and ordinances.

III

- A) Except as otherwise provided in Article VI (B), Contractor shall pay the entire cost of operating and maintaining the Equipment under this Contract throughout the term. Contractor's expense obligations shall include, but shall not be limited to, the following:

I **3. Fuel, Tires, Parts, and Supplies.** All expenses of fuel and lubrication, and all expenses of tires (including changing and repairing tires) and parts, supplies, and equipment needed to perform maintenance and repairs, in conjunction with operating the Equipment.

II **4. Taxes and Fees.** All fuel taxes, Federal Highway Vehicle Heavy Use Tax, state and local axle, weight, mileage, property, indefinite-situs, highway use, or other taxes, and all registration fees and other expenses of acquiring and maintaining current vehicle base plates and licenses (and any unused portions of such fees, plates, or licenses,) detention and accessorial service expense, and empty or bobtail miles (except to the extent Schedule B provides for compensation thereof) with respect to the Equipment.

III **5. Base Plates.** A MOTOR CARRIER approved base plate under the International Registration Plan.

IV **6. Fuel Tax Reporting.** MOTOR CARRIER shall arrange for weekly computation and quarterly filing of all the applicable reports and payments of fuel and mileage taxes required by the taxing bodies and authorities of the appropriate states, provinces, and other government bodies with respect to operation of the Equipment under this Contract. Contractor shall provide MOTOR CARRIER promptly with all properly completed driver logs, original CASH fuel receipts (each to be submitted with the corresponding log indicating the fuel purchase for which the receipt was obtained). MOTOR CARRIER will make a weekly per mile deduction (see schedule D) and the money collected to pay the quarterly fuel tax. MOTOR CARRIER shall (a) deduct from Contractors next Settlement Compensation after completion of each quarterly computation any net fuel use tax owed at that time with respect to Contractor's operation in all taxing jurisdictions combined plus a quarterly administrative fee of \$10.00 (ten dollars) or (b) credit to Contractor's next Settlement Compensation after completion of each quarterly computation any net fuel use tax credit or refund due Contractor at that time with respect to its operations in all taxing jurisdictions combined and after adding a quarterly administrative fee of \$10.00 (ten dollars). MOTOR CARRIER shall ensure that Contractor receives quarterly summaries of credits and debits for fuel use taxes on a state by state basis. To the extent Contractor fails to provide MOTOR CARRIER complete and accurate fuel tax related records, Contractor's fuel use taxes shall be computed based on no greater than a seven-miles-per-gallon rate.

V **7. Fines and Penalties.** Except as provided in Article VI(B)(2), all fines for traffic violations, other fees, penalties, fines or taxes that may be assessed against the Equipment or the services provided by Contractor, or against Contractor, Contractor's agents, servants, or employees. VI

8. Chassis/Trailer Expense.

a. With respect to any chassis or trailer owned or leased by Contractor and only as between parties to the Contract, all maintenance and repairs.
b. With respect to any other chassis or trailer used by Contractor to perform services under this Contract, and only as between the parties to this Contract, all maintenance and repair arising out of Contractor's negligence, gross negligence, willful misconduct, breach of this Contract, or any other culpable acts or omissions (other than ordinary wear and tear, but including violations of law notwithstanding any other provision of this Contract), provided that if such chassis or trailer is owned by a person other than Contractor or MOTOR CARRIER, only to the extent MOTOR CARRIER is financially responsible for such maintenance and repairs under the Uniform Intermodal Interchange and facilities Access Agreement or applicable law. In the event of such other chassis or trailer used by Contractor requires the replacement of one or more tires while in possession of Contractor, any replaced tire shall be returned to MOTOR CARRIER. In the event Contractor fails to return the damaged tires that have been replaced to MOTOR CARRIER, or fails to return the tire receipt from the roadside vendor if return of the tire carcass is not required by the steamship line, Contractor shall be responsible for and MOTOR CARRIER may withhold from Contractor's Settlement Compensation any amount which MOTOR CARRIER is required to pay to the steamship line which provided the chassis or trailer.

9. **Trip Completion.** If, in MOTOR CARRIER's judgment, Contractor has subjected MOTOR CARRIER to liability because of Contractor's acts or Omissions, MOTOR CARRIER may take possession of the goods being transported and MOTOR CARRIER's trailer entrusted to Contractor and complete performance. Contractor hereby authorizes MOTOR CARRIER to deduct from Contractor's Settlement Compensation the expense of performance completion, in accordance with Article XX(C).

B) MOTOR CARRIER shall pay the expense of:

1. **Permits.** Obtaining Unified Carrier Registration Agreement and fuel-tax permits (as described in Section VI (A)(6) for the Equipment.

2. **Certain Fees, Fines, and Permits.** MOTOR CARRIER shall assume the risks and costs of all permit fees, fines, and penalties for Overweight and oversize trailers or containers when the trailers are preloaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of Contractor's control, and for improperly permitted overdimensional and overweight loads, and MOTOR CARRIER shall reimburse Contractor for any fines paid by Contractor, except to the extent the violation resulted from the acts or omissions of Contractor.

3. Removed.

4. **Medical Examinations and Drug and Alcohol Tests.** All expenses for DOT medical examinations under Article V(C) and all drug and alcohol testing under Article V (D).

5. **Certain Chassis/Trailer Expenses.** Only as between Contractor and MOTOR CARRIER, all chassis/trailer expense for which Contractor is not responsible under Article VI (A) (8).

C) **Carrier Card.** As a service to Contractor, MOTOR CARRIER may make available a fuel service card ("Carrier Card") which Contractor's authorized drivers may use to pay for fuel purchases and to obtain cash advances. Contractor's authorized drivers are not required to use the Carrier Card but if

they do, Contractor authorizes MOTOR CARRIER to deduct the fuel-purchase or cash-advance amounts plus the administrative fees set forth in Schedule D (under "Advances"), from the Contractor's compensation.

I VII. DOCUMENTATION OF SERVICES.

To enable MOTOR CARRIER to monitor the movement of equipment under its control, confirm delivery of cargo, and maintain records required by applicable law and regulations, Contractor (or Contractor's authorized driver or agent) shall, upon completion of each trip performed hereunder, submit the following properly completed documents, forms, and paperwork to MOTOR CARRIER:

A) Driver's daily log for each day this Contract is in effect;

B) Driver's daily trip record;

C) Driver's daily vehicle inspection report;

D) A delivery receipt or bill of lading properly dated and signed by the Consignee or Shipper or other authorized person and all supporting shipping documents, and/or Trailer Interchange Receipt ("TIR") or Gate Pass for all equipment moved into or out of a port facility or container yard; and

E) Original fuel receipts and fuel and mileage reports for all fuel purchased during the trip. All receipts shall display the preprinted name and address of the vendor, shall be made out to MOTOR CARRIER, and shall be signed by the driver. All fuel receipts must identify (a) company name, (b) City, (c) State, (d) Unit No., (e) Invoice No., (f) Gallons, (g) Price per Gallon, (h) Total Price, and (i) Driver/Operator Signature.

I VIII. MAINTENANCE REPORTS.

To enable MOTOR CARRIER to fulfill its obligations under 49 C.F.R. Part 396 of the DOT regulations to monitor the inspection, maintenance, and repair of motor vehicle equipment operated under its authority, Contractor agrees to keep and maintain, or cause to be kept and maintained, systematic records of repair and maintenance of the Equipment; to provide MOTOR CARRIER with quarterly Equipment maintenance reports and, promptly upon MOTOR CARRIER's request, any other inspection, repair, or maintenance records. The quarterly reports shall specify all maintenance and repairs performed on the vehicle(s), and shall be supported by paid receipts. The reports are to be submitted to MOTOR CARRIER by the fifteenth (15th) day of each month for the preceding quarter. The reports shall be submitted by Contractor on the appropriate forms of MOTOR CARRIER.

IX. VEHICLE INSPECTION.

Contractor will submit the Equipment to a MOTOR CARRIER approved inspection facility for a full DOT inspection pursuant to 49 C.F.R. § 396.17 prior to execution of this Contract. For the duration of this Contract, Contractor shall (1) have a full DOT inspection, pursuant to 49 C.F.R. § 396.17, performed on the Equipment annually at a MOTOR CARRIER approved facility and (2) make the Equipment available to MOTOR CARRIER for safety-related or other inspection at any time MOTOR CARRIER requests. MOTOR CARRIER shall have the right to require Contractor to remove any unit of Equipment used or to be used by Contractor under this Contract from service when minimum requirements are not met or the potential for hazardous or unsafe operation exists (as discovered by inspection or otherwise).

X. OPERATION OF THE EQUIPMENT.

A) **Contractor Operation.** Contractor shall direct, in all respects, the operation of the Equipment within the guidelines of origin destination points and pick up and delivery times set by MOTOR CARRIER to conform to the requirements of the parties' mutual customers. Specifically, Contractor shall supervise and determine (1) the selection of routes; (2) the securing of loads; (3) the selection of rest stops (provide same are always secure); (4) the selection of fuel and oil stops; (5) where any vehicles used by Contractor are to be repaired; (6) selecting, purchasing, and determining how the Equipment is to be financed; (7) the working hours to be observed, subject to FMCSA regulations; and (8) where MOTOR CARRIER has directed Contractor to perform loading or unloading operations on MOTOR CARRIER's behalf, Contractor shall do so.

B) **Passengers.** Contractor shall not permit any passengers to ride in the Equipment except in the event of an emergency, or with the prior written consent of MOTOR CARRIER. Before MOTOR CARRIER will give such consent, Contractor, Contractor's driver, and the passenger shall sign and submit to MOTOR CARRIER a fully executed MOTOR CARRIER Passenger Authorization & Release of Liability form.

XI. CONTRACTOR'S EMPLOYEES.

Contractor shall be solely responsible for the selection, direction, and supervision, training, disciplining, firing, and other aspects of control of Contractor's drivers, employees, agents or servants, including their wages, hours, and working conditions. Contractor shall determine the method, means, and manner of performing under this Contract, and shall be responsible to MOTOR CARRIER for any losses incurred by MOTOR CARRIER as a result of Contractor or Contractor's workers failure to act in accordance with the terms of this Contract, including all applicable rules and regulations of the FMCSA and the DOT and all other applicable federal and state laws, regulations and ordinances. No person a Contractor may engage shall be considered MOTOR CARRIER's employee. To the extent required by applicable law, Contractor shall maintain workers compensation coverage for all employees, agents and servants Contractor employs in the performance of this Contract. In addition, Contractor shall be responsible for any employment expenses for Contractor's workers, including but not limited to withholding and remitting to proper authorities all payroll taxes and related expenses from the wages paid by Contractor to Contractor's employees, agents or servants, and all benefits and pensions. Contractor shall furnish MOTOR CARRIER such evidence of compliance with the foregoing as MOTOR CARRIER shall reasonable require, including but not limited to proof of income and payroll taxes currently paid by Contractor or withheld by Contractor from the wages of Contractor's drivers and other workers. The indemnification of MOTOR CARRIER by Contractor required by Article XX shall apply in the event, among others, that any claims, actions, administrative proceedings, or arbitrations are brought by the employees or other personnel Contractor furnished, by any union, by the public, or by and federal, state, local, or foreign authority, that arise out of Contractor's furnishing of drivers, drivers' helpers, and other workers and that hold that Contractor or any of Contractor's workers are an employee of MOTOR CARRIER.

XII. NO MINIMUM VOLUME OF BUSINESS.

MOTOR CARRIER does not guarantee, warrant or represent to Contractor that any minimum volume of business, amount of revenue, or number of trips will be available to Contractor during the term of this Contract.

XIII. ANCILLARY SERVICE AND PRODUCTS.

Contractor is not required to purchase or rent any products, equipment, or services from MOTOR CARRIER as a condition of entering into this Contract.

XIV. VEHICLE IDENTIFICATION.

MOTOR CARRIER will provide Contractor with all identification required by all applicable governmental authorities with respect to the Equipment. Such identification shall be affixed to the Equipment while it is being used to perform services for MOTOR CARRIER pursuant to this Contract. When the Equipment is being used to perform services for any other carrier, Contractor shall remove or completely cover all items of identification referring to MOTOR CARRIER or its MC or DOT number. Upon termination of this Contract, Contractor shall, at Contractor's expense, immediately remove all MOTOR CARRIER identification items from the vehicle and, within three (3) days, return all such items to MOTOR CARRIER at Contractor's MOTOR CARRIER dispatching terminal. No final Settlement Compensation payment under this Contract will be made to Contractor until Contractor has removed all identification items belonging to MOTOR CARRIER and, except in the case of identification painted directly on the Equipment, returned such items to MOTOR CARRIER. In the case of identification items that are lost or stolen, or painted directly on the Equipment, a letter certifying their removal shall satisfy this requirement. Contractor will also place identification on the tractor that clearly states the name, City and State of the Owner of the equipment.

XV. INSURANCE

The respective obligations of MOTOR CARRIER and Contractor concerning insurance shall be as set forth in Schedule C. MOTOR CARRIER's self insurance or possession of legally required insurance in no way restricts MOTOR CARRIER's right of indemnification from Contractor under Article XX.

XVI. ESCROW FUND

Contractor authorizes MOTOR CARRIER, and MOTOR CARRIER agrees to establish and administer a required escrow fund (referred to throughout this Contract as "Escrow Fund") in accordance with the provisions of Schedule E.

XVII. AUTHORIZED TRANSPORTATION

All freight transported by Contractor under this Contract shall be carried under freight bills and/or bills of lading or other Documents made by or in the name of MOTOR CARRIER.

XVIII. CHARGE-BACKS AND DEDUCTIONS

Contractor authorizes MOTOR CARRIER to deduct from Contractor's compensation at the time of settlement any expenses, advances, Escrow-Fund contributions, taxes, fees, fines, penalties, damages, losses, and other amounts paid, owed, or incurred by MOTOR CARRIER that, under this Contract, Contractor is obligated to bear, as set forth in Schedule D. All such deductions shall be listed on Contractor's settlement statements.

XIX. ACCIDENT REPORTS AND LITIGATION

A) Contractor agrees that Contractor will report or cause to be reported to MOTOR CARRIER, by telephone, immediately after the occurrence thereof, any accidents, injuries, or loss of, shortage in, or damage of any nature to the Equipment, the driver thereof, the Cargo, or any other persons or property involved in an accident with the Equipment, and, as soon practical thereafter, will submit a full and complete written report covering such occurrence to MOTOR CARRIER or its designated representative in the form and manner required by applicable regulations of the FMCSA, the DOT, or any other applicable governmental authority.

B) Contractor agrees to place itself and Contractor's agents, servants, employees and attorneys at the service and disposal of MOTOR CARRIER, both during the term of this Contract and after its termination, for the purpose of assisting MOTOR CARRIER in the defense of claims or suits arising out of any operations or conduct of Contractor under the provisions of this Contract. MOTOR CARRIER shall retain the exclusive right to determine the disposition of any such proceeding by way of settlement, satisfaction of judgment, or appeal through the appropriate administrative agency and/or court.

XX. INDEMNIFICATION AND HOLD HARMLESS. A) **General Indemnity Requirement.** Contractor agrees to indemnify, and hold MOTOR CARRIER harmless from any claim (including any for which MOTOR CARRIER is not indemnified by its insurance and any claim of loss or damage to the Equipment or to Contractor's other property) of direct, indirect, or consequential loss, damage, delay, fine, civil penalty, or expense, including reasonable attorneys' fees and costs of litigation (together "Damages") that MOTOR CARRIER pays or otherwise incurs arising out of or in connection with Contractor's (including Contractor's agents' or employees') negligence, gross negligence, willful misconduct, breach of this Contract, or other culpable acts or omissions (including violations of law notwithstanding any other provisions of this Contract). Contractor hereby authorizes MOTOR CARRIER to deduct any amounts due to MOTOR CARRIER under this Article XX(A) from Contractor's Settlement Compensation or from other monies due Contractor, and, if necessary, to recover such amounts through all available means. MOTOR CARRIER shall furnish Contractor with a written explanation and itemization of any such deduction for cargo or property damaged

before the deduction is made. In the event that Contractor operates the Equipment for any purpose other than the carriage of MOTOR CARRIER's lading, Contractor shall hold MOTOR CARRIER harmless and indemnify MOTOR CARRIER for any damages (including attorneys' fees) arising from such use.

B) Indemnity Limits. Contractor's indemnity obligation under Article XX (A) above arising out of or in connection with claims Involving Contractor's (including Contractor's agents' or employees') negligence, shall be limited to the lesser of MOTOR CARRIER cost or six thousand (\$6,000) per occurrence, provided that no limit shall apply to Damages arising out of or in connection with claims involving Contractor's (including Contractor's agents' or employees') gross negligence, willful misconduct, breach of this Contract, or other culpable acts or omissions (including violations of law notwithstanding any other provisions of this Contract).

C) Trip Completion and Termination-Related Expenses. Article XX(B) above shall not limit or preclude MOTOR CARRIER from deducting from Contractor's Settlement Compensation, or from seeking to recover from Contractor through other lawful means, all amounts MOTOR CARRIER pays or otherwise incurs in connection with trip-completion under Article VI(A)(9) or termination of this Contract under Article XXI(B).

D) MOTOR CARRIER's Insurance Policies. MOTOR CARRIER has secured certain insurance policies and coverages directly relevant to certain risks and liabilities for which Contractor has agreed to indemnify MOTOR CARRIER under this Article (for example, automotive liability, general liability, and cargo liability arising out of or in connection with Contractor's (including Contractor's agents' or employees') negligence, gross negligence, willful misconduct, breach of this Contract, or other culpable acts or omissions, (including violations of law notwithstanding any other provisions of this Contract). Such policies are expressly for the benefit of MOTOR CARRIER and incidentally may benefit Contractor. Terms of such policies may change (for example, higher or lower deductibles, length of coverage, UM/UIM waivers or limitations, or insurance underwrites). Contractor has neither any obligations under the policies nor any right to change the terms of coverages.

XXI. TERMINATION A) Events and Date of Termination. Notwithstanding any other provisions of this Contract to the contrary, this Contract shall be terminated upon the happening of any of the following events: (1) any breach of this Contract, unless the parties manifest an intention, by written agreement or otherwise, not to terminate this Contract upon such breach, (2) the filing of a bankruptcy petition by either MOTOR CARRIER or Contractor, (3) a written agreement between MOTOR CARRIER and Contractor to terminate this Contract, or (4) a written communication by MOTOR CARRIER or Contractor to the other party, manifesting an intention to terminate this Contract twenty-four (24) hours from the time of receipt of such written communication by the other party. The effective date and time of termination shall be as set forth in the written notice given by either party, or on receipt for the Equipment if one is issued by Contractor to MOTOR CARRIER, or when, as a practical matter, possession of the Equipment by MOTOR CARRIER has ended, whichever of these dates is the earliest.

B) Contractor's Obligations upon Termination.

1. Unless otherwise instructed by MOTOR CARRIER, upon termination of this Contract, Contractor shall complete the performance of all transportation and other services required by MOTOR CARRIER or any bill of lading pertaining to any move he has contracted for prior to any such occurrence or event giving rise to termination in accordance with the terms of this Contract. Contractor shall receive no compensation for any move with respect to which Contractor has failed to complete all required transportation and other services. In the event MOTOR CARRIER instructs Contractor not to complete performance of transportation or other services that Contractor is willing and able to perform, MOTOR CARRIER will pay Contractor compensation determined in accordance with Schedule B for the portion of such services that Contractor performed prior to termination.

2. Contractor shall, immediately upon termination of the Contract or the completion of the transportation or other Services provided herein, whichever occurs later, both remove all of MOTOR CARRIER's identification from the Equipment and, except in the case of identification painted directly on the Equipment, return them to MOTOR CARRIER via prepaid hand-delivery, overnight delivery, or certified mail (provided that if the identification has been lost, stolen, or painted directly on the Equipment, a written notice (letter) certifying its removal will satisfy this requirement); return all of MOTOR CARRIER's or third-party's property, including chassis, trailers, permits, and other paperwork, handheld electronic device and any other equipment, and freight to Contractor's MOTOR CARRIER dispatching terminal or to any closer MOTOR CARRIER designates, and pay MOTOR CARRIER all amounts Contractor owes MOTOR CARRIER at that time under this Contract.

3. If Contractor fails to return MOTOR CARRIER's property or freight to MOTOR CARRIER or remove and return all of MOTOR CARRIER's identification from the Equipment upon termination of the Contract, Contractor shall pay MOTOR CARRIER all expenses (including reasonable attorneys' fees) MOTOR CARRIER incurs in seeking the return of such items, and MOTOR CARRIER may pursue all other remedies allowed by law or authorized in the Contract against Contractor. Such remedies include withholding Contractor's last compensation payment until Contractor removes and, except in the case of identification painted directly on the Equipment, returns all of MOTOR CARRIER's identification devices, or delivers to MOTOR CARRIER a letter certifying that such identification has been removed, and making deductions from any remaining balances in Contractor's Escrow Fund for replacement value of MOTOR CARRIER's unreturned property and for other amounts Contractor owes MOTOR CARRIER as provided in Schedule E.

4. If this Contract is terminated within one hundred eighty (180) days of its signing Contractor hereby authorizes MOTOR CARRIER to deduct from Contractor's Settlement Compensation the fees MOTOR CARRIER paid for DOT Physicals, Overweight Permits, Annual Vehicle Inspections, IRP base plate, Single-State Registration System (or its replacement system), road-use and fuel tax permits for the Equipment.

C) Parties' Post-Termination Liabilities and Entitlements. If, up to and including the date of termination, one or more events occur that give rise, before or after that date, to a liability or entitlement of Contractor or MOTOR CARRIER under this Contract, such Liability or entitlement shall continue, notwithstanding the termination of this Contract, until such liability or entitlement is satisfied in full.

I XXII. GENERAL

A) General. The subject headings of this paragraph and sub-paragraphs of this Contract are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. All dollar amounts specified are based on U.S. Dollars. Original, faxes, or other-wise imaged signatures shall be equally valid.

B) **Severability.** If any provision (including any sentence or part of a sentence) of this Contract (including its attachments and addendums) is deemed invalid for any reason whatsoever, the Contract shall be void only as to such provision, and this Contract shall remain otherwise binding

between the parties. Any provision voided by the operation of the foregoing shall be replaced with provisions that shall be as close to the parties' original intent as permitted under applicable law.

C) **Waiver.** The failure or refusal of either party to insist upon the strict performance of any provision of this Contract or to exercise any right in any one or more instances or circumstances shall not be construed as a waiver or relinquishment of such provision or right, nor shall such failure or refusal be deemed a customary practice contrary to such provision or right.

D) **Entire Contract.** This Contract (including all Schedules and Addendums) set forth the entire agreement between Contractor and MOTOR CARRIER – and fully cancels, replaces, and supersedes all pre-existing contracts, agreements, representations, and Understandings between Contractor and MOTOR CARRIER – with respect to the subject matter in contains. It is further understood and agreed by MOTOR CARRIER and Contractor that this Contract may be modified only by a written addendum, which is signed by both MOTOR CARRIER and Contractor, except as otherwise provided with respect to charge-backs and other deductions in Section 3 of Schedule D and insurance deductions in Section 6 of Schedule C.

I **XXIII. COPIES OF CONTRACT AND "STATEMENT OF LEASE"**

MOTOR CARRIER shall, as set forth in 49 C.F.R. § 376.12(/), keep the original of this Contract, with a copy to be retained by Contractor. Pursuant to 49 C.F.R. § 376.11(c)(2), a "Statement of Lease" shall be carried on the Equipment for those periods that the Equipment is operated by or for MOTOR CARRIER under this Contract.

I **XXIV. NO ASSIGNMENT**

This Contract shall be binding upon and inure to the benefit of the parties to this Contract and their respective successors. No Assignment of this Contract or transfer of the rights and duties of Contractor under this Contract may be effected without prior written consent of MOTOR CARRIER. MOTOR CARRIER may assign this Contract to another motor carrier by providing written notice of the assignment to Contractor.

I **XXV. LAWS, JURISDICTIONS, AND VENUE**

Contractor and MOTOR CARRIER agree that this Contract, and all of the terms and conditions contained herein, will be interpreted in accordance with, and governed by, the laws of the United States and the State of Delaware, without regard to the choice-of-law rule of any jurisdiction.

I **XXVI. NOTICES**

All notices and notifications required or permitted by this Contract shall be in writing (unless permitted elsewhere in this Contract to be oral) and shall be deemed to have been fully given (unless otherwise specified in this Contract) (a) upon delivery if delivered in person or by facsimile transmission; (b) on the next business day after being deposited with an overnight delivery company with the express charges prepaid; or (c) on the date indicated on the return receipt, or if there is no such receipt, on the third business day after being deposited in the United States Mail with first-class postage prepaid; in each event properly addressed to the other party at the address or fax number shown at the end of this Contract. MOTOR CARRIER and Contractor shall be under a continuing duty to provide a correct address and telephone number to the other party, and MOTOR CARRIER and Contractor (if the latter has a fax machine) to provide a correct fax number to the other. Notice of an address, telephone-number, or fax-number change shall be given in writing.

IN WITNESS WHEREOF, Contractor and MOTOR CARRIER have caused this Contract to be subscribed by their duly authorized representatives.

on this the _____ day of _____, 20__.

MOTOR CARRIER: MOTOR CARRIER, Contractor: _____

By: _____ **By:** _____

Signature Signature

Authorized Rep.'s Name (Typed or Printed) Authorized Rep.'s Name (Typed or Printed)

Title: _____ **Title:** _____

123 Main St _____

Anywhere, GA Address (Street, P.O. Box)

City, ST, Zip Code

Phone Fax

Email: _____

MOTOR CARRIER

STATEMENT OF LEASE

To the extent provided by the Independent Contractor Operating Contract entered into between the undersigned Contractor and MOTOR CARRIER

on _____, 20____ ("Contract"), this Equipment is being operated by the undersigned MOTOR CARRIER.

Contractor is the Equipment's "owner", as the latter term is defined by 49 C.F.R. § 376.2(d). The Contract has a term of one (1) year and will be

automatically renewed from year to year thereafter, unless terminated sooner by either party. The Contract includes no restrictions relative to the

commodities to be transported. The original of the Contract is kept by MOTOR CARRIER at its headquarters address shown below.

The undersigned parties to the Contract agree that, pursuant to 49 C.F.R. § 376.11(c)(2). A copy of this "Statement of Lease" is to be carried

on the Equipment during all periods that, pursuant to the Contract, the Equipment is being operated by or on behalf of MOTOR CARRIER.

MOTOR CARRIER: MOTOR CARRIER, Contractor: _____

By: _____ **By:** _____

Signature Signature

Authorized Rep.'s Name (Typed or Printed) Authorized Rep.'s Name (Typed or Printed)

Title Title

123 Main St _____

Anywhere, GA Address (Street, P.O. Box)

City, ST, Zip Code

Phone Fax

Email: _____