

**ADM LOGISTICS, INC. BROKER/CONTRACT CARRIER AGREEMENT**

AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between \_\_\_\_\_ ("CARRIER"), with its principal place of business at \_\_\_\_\_, \_\_\_\_\_, and Archer Daniels Midland Company, its subsidiaries and affiliates (collectively referred to as "BROKER"), with its principal place of business at 4666 Faries Parkway, Decatur, IL 62525.

WHEREAS, BROKER is a freight broker, duly authorized by the ICC, and CARRIER is a motor contract carrier duly authorized by the Department of Transportation under Permit No. MC#\_\_\_\_\_ (a copy of which is attached hereto); and

WHEREAS, BROKER AND CARRIER UNDERSTAND THAT THIS Agreement does not bind the respective parties to mutually exclusive services to each other, and that BROKER may enter into similar agreements with other carriers, and CARRIER may enter into similar contract carriage agreements with other brokers and/or shippers;

NOW, THEREFORE, in consideration of their mutual promises herein, the parties agree as follows:

1. BROKER, at its discretion, shall offer freight traffic shipments to CARRIER for transportation; and CARRIER shall transport such shipments without delay subject to the availability of suitable equipment for the traffic offered and the specific shipment instructions, all in accordance with the terms and conditions of this Agreement.

2. BROKER shall pay CARRIER for the transportation of goods under this Agreement in accordance with the negotiated rate for each shipment within thirty (30) days of the receipt by BROKER of CARRIER'S invoice covering such transportation, subject to provisions in Paragraph 8.

3. CARRIER shall provide transportation and bill all charges for transportation services directly to BROKER and shall provide BROKER with copies of signed bills of lading, delivery receipts or other documents as reasonably requested by BROKER as evidence of such services.

4. CARRIER shall insure that a Uniform Straight Bill of Lading in its own name accompanies all shipments, and shall assume full and complete responsibility and liability, regardless of the fault of any person, for any and all loss and damage to, or delay of, any shipment while in possession or control of CARRIER, under its terms, provided however, where the terms and conditions specified in this Agreement conflict with those in the Uniform Freight Bill of Lading, the terms and conditions in this Agreement shall prevail. All claims for loss, damages, delay and salvage shall be processed and adjusted in accordance with the regulations of the Department of Transportation as published in 49 CFR Part 1005. The liability under this Agreement shall be for the full value of the property lost or damaged. Full value of lost or damaged items shall mean and replacement cost established by trade sale or other invoice documentation, plus any additional transportation costs. CARRIER shall not salvage, sell, dispose or destroy such cargo except as directed by BROKER.

5. CARRIER shall comply with the financial responsibility requirements of the appropriate federal and state laws and regulatory agencies through which it is authorized to operate. CARRIER shall maintain primary cargo insurance in an amount equal to the full value of the maximum quantity of goods expected to be transported at any one time under the Agreement, but in no event in an amount less than \$100,000 per shipment for any and all loss or damage to property which was placed in possession or control of CARRIER. CARRIER shall also maintain the following insurance in the minimum amounts specified, but in no event in amounts less than those prescribed by applicable statues and regulations of the Department of Transportation ("DOT"). CARRIER cargo and liability insurance shall comply with DOT requirements in all respects, and shall be in the form required by 49 CFR 387, with no exclusions or restrictions which would not be accepted by the DOT for a filing under statutory or regulatory requirements, but shall be, in all respects, identical to insurance filed in accordance with the cited regulation. CARRIER agrees that its cargo and liability insurance policies shall require the insurance carrier to give BROKER written notice thirty (30) days prior to the cancellation of such policies. CARRIER shall furnish to BROKER within thirty (30) days after execution of this Agreement and thereafter upon requests, copies of insurance policies and a Standard Certificate of Insurance of Cargo Insurance.

CARRIER agrees that it will pay all state and federal taxes, unemployment compensation insurance, old age pension and other social security with respect to all persons engaged by it in the performance of this contract.

Insurance Minimums:

Commercial General Liability	\$1,000,000.00
Auto Liability	\$1,000,000.00
Workman's Compensation	Statutory
Cargo Liability	\$100,000.00

6. CARRIER shall defend and hold BROKER harmless from, and indemnify BROKER for, any and all liability or claims for loss or damages to any freight in the possession or control of the CARRIER, in connection with transportation under this Agreement, and any and all liability or claims for personal injury or death or property loss or damage arising out of the acts or omissions of CARRIER in providing transportation under this Agreement, including attorneys' fees and costs. These indemnity obligations shall survive any termination of this Agreement.

7. CARRIER, at it sole cost and expense, shall furnish all trained and licensed personnel and equipment required for service hereunder and shall maintain all equipment in clean condition, good repair and working order. Without the prior

written consent of BROKER, CARRIER shall not cause or permit any shipment tendered hereunder to be brokered to or transported by any other motor carrier or other modes of transportation.

8. Terms, rates and charges for traffic moved under this Agreement and for any additional or accessory services shall be agreed to by the parties prior to CARRIER providing services.

9. CARRIER shall neither have nor claim any lien rights on or against any property transported under this Agreement. However, should a consignor or consignee notify BROKER of a claim for loss or damage to property transported by CARRIER under this Agreement, CARRIER agrees that BROKER and consignor/consignee shall have the right to set-off an amount sufficient to cover such damages, and to deduct and withhold such amount from any freight charge payments due CARRIER.

10. Arbitration: This Agreement shall be governed by, enforced and construed in accordance with the laws of the State of Illinois without regard to its conflict of laws provisions; however, the limitations periods in 49 USC §§ 14705 and 13710(a)3(A) shall apply. Any dispute, claim or controversy between the parties shall be resolved by binding arbitration in Chicago, Illinois U.S.A. in accordance with the then-applicable rules of the American Arbitration Association or any successor thereto. If the parties shall not have agreed on a mutually satisfactory arbitrator within ten days of the request of any party for arbitration hereunder, the American Arbitration Association shall forthwith appoint an arbitrator. The arbitrator may grant injunctions and any and all other forms of relief in such dispute permitted under the American Arbitration Association rules, but in no event shall the arbitrator award any consequential, incidental or punitive damages. The award of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction, and the parties hereby irrevocably consent to the jurisdiction of the United States District Court for the Northern District of Illinois and the courts of the State of Illinois for this purpose.

11. The relationship of the BROKER to the CARRIER shall, at all times, be that of an independent contractor, provided however, that BROKER shall be the agent of the CARRIER for receipt and collection of freight charges and fees, and CARRIER hereby authorizes and appoints BROKER as its agent for such purposes.

12. In the event that after movement and delivery of freight, the ultimate obligor for payment of freight charges and fees becomes bankrupt, or defaults on its obligation to pay freight charges and fees which BROKER has paid to CARRIER, CARRIER agrees that all its right, title and interest in such charges and fees are transferred and assigned to BROKER for purposes of collection and recovery from the responsible party(s).

13. This Agreement is to become effective on the date first written above and shall remain in effect for a period of one (1) year from such date, and shall automatically renew from year to year thereafter, subject to the right of either party hereto to cancel or terminate the Agreement at any time upon not less than thirty (30) days written notice of one party to the other.

14. In providing services hereunder, CARRIER may obtain access to confidential or proprietary information of BROKER or consignor or consignee, including, but not limited to, information relating to merchandise, distribution, inventories, operations, customers and procedures. CARRIER shall maintain the confidentiality of such information, taking all reasonable precautions to prevent disclosure, and using such information only within the scope of this Agreement, except to the extent that greater disclosure is required by law. The provisions of this section shall survive the termination of this Agreement.

15. If any part of this Agreement is determined by competent public authority or court to be contrary to the laws or regulations of any applicable jurisdiction, then such invalid or unenforceable provision shall be severed from this Agreement without affecting the validity of any other remaining provisions of this Agreement.

16. The contractual provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

17. Neither party to this Agreement may assign their rights or obligations under this Agreement without the express written consent of the other party. This Agreement shall be binding upon the parties hereto, their legal representatives, successors, heirs and authorized assigns.

18. The provision contained in this Agreement property express and memorializes the complete agreement and understanding between the parties, including those as contained in all prior agreements, both verbal or written, and there are no other agreements or understandings whatsoever, express or implied. This Agreement may not be changed, waived or modified except by written agreement signed by CARRIER and BROKER stating that such writing is an amendment to this Agreement. Any term or provision in a prior or subsequent writing to the date of this Agreement which is in conflict with any term or provision herein is objected to and rejected.

IN WITNESS WHEREOF, the parties have set their hands and seals effective as of the day first written above.

Please sign and print authorized approval of this Agreement below:

BROKER

CARRIER

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Witness \_\_\_\_\_

Witness \_\_\_\_\_

#49257 v6