



## Broker Agent Agreement

This agreement shall govern the compensation arrangements, payment terms, and responsibilities of, \_\_\_\_\_, hereinafter referred to as Agent, and DY Logistics LLC, hereinafter referred to as Broker, a licensed broker of property authorized by the Federal Motor Carrier Safety Administration, pursuant to Docket No. MC# MC1013699.

The purpose of this Agreement is to establish a working relationship whereby the BROKER supports the AGENT and their transportation activity to the benefit of both parties. The AGENT, having fulfilled the terms and conditions of this AGREEMENT, may operate their agency under the authority of licensed property BROKER for the purpose of this Agreement, the definition of a Shipper is any person or company who is responsible for paying an invoice for the movement of freight. A Carrier is any person or company authorized by the Federal Motor Carrier Safety Administration (FMCSA) as a mode of transportation for interstate commerce. WHEREAS, Broker has earned the respect of the US shipping and transportation communities, and WHEREAS, Broker has developed transportation contracting and remitting capabilities that relieves Agents of burdensome paperwork, including credit acceptance and collections as well as other features that benefit the Agent's brokering activities and, WHEREAS, Agent desires Broker, to perform certain administrative functions and desires affiliation with the Broker as a creditworthy service institution and Broker agrees not to circumvent or back solicit Agents customer/shipper base. Now, THEREFORE, Agent and Broker agree to perform the following activities and to split commissions realized from their joint transportation brokering activity, in a manner agreed upon as set forth below.

### AGENT DUTIES

Agent's duties in this Agreement are to secure commitments from Shippers and Carriers to move freight from one location to another including the following:

- Agent will find customers/shippers and carriers and negotiate their own rates.
- Agent must conduct brokering activity in accordance with accepted (FMCSA) practices.
- Agent shall secure a Customer credit approval from DY Logistics LLC prior to committing to providing service. Failure to receive credit approval will result in Agent being responsible to DY Logistics LLC for the full amount of any freight charges that may be billed Agent directly.
- Agent shall secure carrier approval by sending completed carrier packets for approval before tendering loads to carrier (unless already approved carrier).
- Agent will perform all dispatch duties associated with their shipments. Dispatch duties shall include, but not necessarily be limited to:
  - dispatch of a vehicle operating under the motor carrier operating authority of DY Logistics LLC;
  - post-dispatch communications with the driver regarding the load (e.g., check calls, delivery confirmation)
  - collecting associating load-related paperwork to either be held by Agent or remitted to DY Logistics LLC, as instructed by DY Logistics LLC (if no instructions are given, Agent shall hold any such paperwork for at least three-years from the date of delivery of the underlying load).
- Agent will maintain capabilities to communicate with DY Logistics LLC via Internet, Facsimile and/or Telephone; maintain usual and customary office hours Monday through Friday of each

week (local time) with additional after hours and weekend coverage as required to facilitate business;

- Agent shall utilize DY Logistics LLC designated agent operating software systems supplied at DY Logistics LLCs expense through the Agent supplied internet access.
- Agent will be liable for payment of uncollectable freight bills and for claims resulting from the errors and omissions of the Agent while performing his duties as defined by this Agreement.
- Agent must offer to Broker all freight shipments in which they represent Broker as the party responsible for payments. Such freight brokered to other (FMCSA) carriers without the knowledge and prior approval of Broker, is cause for immediate termination of the Agreement.
- Agent will tender all his or her freight business EXCLUSIVELY to Broker unless both the Agent and Broker agree to other arrangements in writing.

## **BROKER DUTIES**

Broker's duties in this Agreement are to fulfill all legal requirements mandated by the U.S. Department of Transportation, and provide additional assistance to permit the Agent to legally negotiate the movement of freight under the license. Such duties include the following:

- Broker will be liable for undercharges resulting from contracting and billing errors committed by Broker.
- Broker must maintain current status of (FMCSA) operating authorities and insurance for all approved transportation providers.
- Broker will run credit checks on all customers/shippers for approval prior to shipment acceptance.
- Broker will run all checks and approve/disapprove carriers provided by the Agent prior to freight being tendered to carrier.
- Broker will assist Agent in finding qualified carriers for loads.
- Broker bills and collects transportation charges from shippers.
- Broker pays carriers.
- Broker settles commissions due to Agent.

## **COMMISSION SETTLEMENTS**

Agent shall be compensated on a bi-monthly basis pursuant to the terms and conditions described in Appendix A ("Commission"). All required paperwork for billing of Customers (if applicable) must be received by DY Logistics LLC as necessary for accurate and timely billing prior to any agent compensation. Periodic statements of Shipments billed, amount paid to Agent, as well as Shipments tendered and accepted and not billed, will be made available to Agent as reasonably requested. In the event that any freight bill owed by a Customer on which Commission was advanced to Agent remains unpaid after sixty (60) days from the invoice date, Agent will, on demand by DY Logistics LLC, refund to DY Logistics LLC one hundred percent (100%) of the Commissions paid to Agent by DY Logistics LLC on account of the Shipments that remain unpaid; provided, however, that DY Logistics LLC will repay to Agent all Commission if the freight bill is subsequently collected by DY Logistics LLC without the assistance of an outside collection agency or an attorney. If DY Logistics LLC employs the services of an outside collection agency or attorney to effect the collection of a freight bill, and the outside collection agency or attorney is able to collect the entire freight bill or a portion of the original billed amount, then DY Logistics LLC will repay to the Agent a prorated portion of the amount of such Commission. The prorated portion will be the difference between the Commission on the original billed amount and the collected amount less the outside collection agency or attorney fees and cost. No commission shall be earned by or payable to Agent for unless the load transaction is completed and DY Logistics LLC is entitled to bill and receive freight charges and accessorial charges (if any) from the party responsible for payment.

## **FINANCING ACCOUNTS**

Agent's customers/shippers should be prompt in payment. Standard payment terms requested will be 15 days. Broker will finance accounts with 30 days terms as a matter of course, however, if Agent's shipper is 45 days or more days past date of invoice, Broker may negotiate a larger commission from Agent for that account. Shippers who are past due 60 days in payment may be barred, unless special arrangements are made. Agent will be notified by Broker of all accounts past due.

## **NONSOLICITATION AND CONFIDENTIALITY**

Agent agrees that during the term of this Agreement and for a period of twelve (12) months thereafter, it will not, directly or indirectly, employ any current or former DY Logistics LLC employee or solicit DY Logistics LLC employees to leave their employment with DY Logistics LLC, assist any person or entity in such employment or solicitation, or solicit or accept shipments from customers of DY Logistics LLC whose transportation patterns, needs

and volumes were made known to Agent in conjunction with its business relationship with DY Logistics LLC, including without limitation DY Logistics LLC customer relationships existing prior to and continuing during such period (but excluding Agent's customer relationships existing prior to and continuing during such period). Agent understands and agrees that protection of DY Logistics LLC customer base is vital to DY Logistics LLC business and that loss of such customer(s) will cause irreparable harm to DY Logistics LLC. As such, the parties agree that one of DY Logistics LLC's remedies in the event of a breach of this Section and Section 20 by Agent will be DY Logistics LLC's right to seek injunctive relief for such breach.

During the performance of this Agreement or after the termination or expiration of this Agreement, neither Agent nor DY Logistics LLC shall disclose to any other person or entity any of the procedures, practices, dealings or other information concerning the business, finances, transactions or affairs of Agent or DY Logistics LLC that is disclosed by Agent to DY Logistics LLC, by DY Logistics LLC to Agent or as a result of performance of DY Logistics LLC or Agent under this Agreement, in whatever form or which constitutes a trade secret under applicable law, including any verbal or written information or other documentation (collectively, "Confidential Information"). Confidential Information includes, without limitation, information concerning rates, charges, origins, destinations, products and sales or marketing information relating to a shipment. The provisions of this Section shall not apply to: (a) information already in the possession of the receiving party as of the time of the disclosure that was not given to the receiving party under a then-existing obligation of confidentiality, (b) information developed independently by the receiving party without reference to, or use of, any Confidential Information, (c) information obtained by the receiving party without any obligation of confidentiality to the disclosing party, (d) information publicly available when received, or which thereafter becomes publicly available other than through any unauthorized disclosure by, through, or on behalf of, the receiving party, and/or (e) disclosures required by law.

## **COLLECTIONS**

Broker will commence collection activity on the 34th day from invoice by faxing or emailing a copy of the invoice and POD to Agent, and request assistance from Agent. Failing receipt of receivable on the 45th day, Broker will e-mail or mail a copy of the past due invoice to shipper as a past due notice and credit to that shipper will be suspended, until account is paid to current status, or other arrangements are made. Agent is required to inform his clients that claims are a separate issue from payment of freight bill. Agent will assist in the settlement of any claim. Failing collection efforts of Agent against the shipper, the commission paid to Agent will be deducted from Agent's outstanding commissions settlement.

## **PRE-PAID INVOICING**

Broker will invoice shippers without proof of delivery if the Agent can negotiate pre-paid billing.

**BROKER ASSISTANCE**

Broker will provide assistance in the formats listed below, and any other support deemed prudent by broker.

- Broker will provide free basic Truckstop load board account for broker to post loads and search for trucks. Any additional services or tools will be at Agents expense.
- Broker will provide web login for TMS system to be used for all load information, carrier dispatch and customer information.
- Broker will provide an email account to be used for all customer and carrier correspondence.
- Broker will provide brokering service in the absence of Agent, and commission splits will be 50/50 (50% to Broker) based on the profit for loads successfully negotiated.
- Broker will provide an email account to be used by the agent for all company communications.

**TERMINATION**

Broker or Agent may terminate Agreement with 14 days written notice.

Any claim or action under this agreement shall be brought exclusively in the state of Arizona.

\_\_\_\_\_  
Agent Name or Agency Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Telephone Number Fax Number

I agree to the terms set forth by this document

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

## Appendix A – Commission

Agent will be compensated seventy-five percent (75%) of the Net Revenue on Agents generated loads and forty (40%) of the Net Revenue from every load generated from the efforts of DY Logistics LLC sales prospecting or lead generation where Agent performs Dispatch Related Services as defined in Agent Duties section above. DY Logistics accounts are (House Accounts) and may be worked by any agent that the freight has been assigned to by management personnel.

All loads subject to the following definitions, exceptions and conditions: (a) Net revenue is defined as the transportation charge for Shipment(s) actually paid by the Customer to DY Logistics LLC for the movement of Customer's cargo between the point of origin and point of destination reduced by: (i) any and all transportation charges paid by DY Logistics LLC to any third-party (including, but not limited to, owner-operators under lease to DY Logistics LLC) whether for the entire movement or for a pro-rata portion of the move; (ii) any and all expenses attributed to accessorial services or charges (including, but not limited to, fuel surcharges) paid to any third-party; (iii) any warehouse or storage charges; (iv) any revenue received by DY Logistics LLC related to excess value declarations or insurance charges; and (v) incentives, rebates, discounts, or commissions to Customers or other third parties. Upon execution by Agent and DY Logistics LLC below, this Appendix A shall be a part of and incorporated by reference into the Independent Agent Agreement.

Broker must derive at least \$25 per load and at least \$250 per week as a minimum commission or Agent compensation percentage may be reduced.

All commission checks due are paid on the 1<sup>st</sup> for the invoices received from the carriers by 12pm on the 15<sup>th</sup> – 29<sup>th</sup> of the previous month and the 15<sup>th</sup> for invoices received from the carriers by 12pm on the 30<sup>th</sup> – 14<sup>th</sup> of the current month. Commissions due are only calculated once receipt of a clean Bill of lading, as proof that the load tendered was successfully delivered to the ultimate destination, a complete invoice has been received from the carrier and the shipper has been invoiced. Agent will be furnished with the transcript of commissions earned from DY Logistics LLC each pay period. It is the agent's responsibility to record commissions earned and to report all discrepancies to the Brokerage for review. All payments will be made via check and mailed to the company address provided by the agent.

\_\_\_\_\_ Initials