

Farmers Grain Express, Inc. Motor Carrier Transportation Agreement

This Motor Carrier Transportation Agreement (the "Agreement") is entered into on this _____ day of _____, 20____.

Between: Farmers Grain Express, Inc.
217 South Hickory St
Mount Vernon, MO 65712
(Hereinafter referred to as "Farmers Grain")

And: _____

(Hereinafter referred to as "Carrier")

Whereas, Carrier is a DOT licensed contract carrier operating pursuant to Permit No. MC_____Sub No. _____, and is authorized to provide transportation of property for Farmers Grain; and

Whereas, Farmers Grain is a DOT licensed transportation broker registered with the United States Department of Transportation Federal Motor Carrier Safety Administration ("DOT") to operate to License MC-209568/Sub-2, and warrants that it has a surety bond in the amount of \$75,000.00 and arranges the transportation of commodities to be tendered to CARRIER in accordance with the criteria established by Farmers Grain; and

Whereas, Farmers Grain desires to engage CARRIER to provide certain transportation and other related incidental services (the "Services") for the shipment of cargo of Farmers Grain's customers (each a "Customer" and collectively the "Customers"), in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, CARRIER and Farmers Grain mutually agree as follows:

1. Term:
This Agreement shall become effective on the date written above. Notwithstanding the foregoing, in the event that CARRIER has had a prior course of dealing with Farmers Grain, or any affiliates of Farmers Grain, this Agreement shall be deemed effective on the first date CARRIER and Farmers Grain (or the Farmers Grain affiliate) commenced doing business together, and the parties agree that the provisions contained herein properly express and memorialize the complete understanding of the parties both verbal and in writing. This Agreement shall continue until cancelled or terminated by either party upon not less than (30) days written notice.
2. Transportation Services:
Farmers Grain hereby agrees to tender shipment to CARRIER as its needs require for transportation in Interstate, Intrastate, Inter-Provincial/Territorial, or Intra-Provincial/Territorial Commerce, and CARRIER hereby agrees to transport such shipments in accordance with the terms and conditions stated in the Agreement.
3. Carrier Obligations:
The relationship of CARRIER to Farmers Grain created by this Agreement is that of an independent contractor. Farmers Grain IS ONLY INTERESTED IN THE RESULTS OF CARRIER'S PERFORMANCE, under this Agreement. CARRIER is not an employee of Farmers Grain, and no agent, officer, director or employee of CARRIER

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is, will be, or will be deemed to be, an officer, director or employee of Farmers Grain. None of the benefits provided by Farmers Grain to its employees including, without limitation, compensation, benefits, insurance, or unemployment insurance, will be available to CARRIER or the agents, officers, directors, employees, or representatives of CARRIER, if any. CARRIER assumes full responsibility for the payment and reporting of all local, state and federal taxes and other contributions imposed or required under unemployment, Social Security, or income tax laws, with respect to the rendition of the services by or on behalf of CARRIER to Farmers Grain.

CARRIER represents and warrants that it and its drivers have the necessary permits and licenses from the appropriate governing state and federal authorities. CARRIER shall, at its own expense, procure and at all times during the term of this Agreement, maintain all necessary permits, licenses, and operating certificates required to perform the services contemplated hereunder including, but not limited to, maintaining the appropriate permits, licenses, and operating certificates by its drivers. CARRIER also agrees to comply with, and ensure that its agents and employees comply with all applicable federal, state and local laws, rules, regulations ordinances and orders, including, without limitation, all regulations established by the U.S. Department of Transportation relating to controlled substances testing. Violation by CARRIER of any such laws, rules, regulations, ordinances, and/or other legal requirements governing the provisions of the Services under the Agreement shall be deemed a material breach of this Agreement.

CARRIER further represents and warrants that during the term of this Agreement, CARRIER will remain in good standing with the Federal Motor Carrier Safety Administration ("FMSCA") safety monitoring program, including, without limitation the requirements of CSA 2010. If CARRIER is not considered in good standing with FMSCA, CARRIER will notify Farmers Grain immediately.

CARRIER agrees to transport all shipments on equipment owned or leased by CARRIER to operate under CARRIER'S contract carrier authority. CARRIER shall not use any substitute service to provide the Services requested by Farmers Grain, whether it be another motor carrier, rail or any other mode of transportation intermediary, without the prior written consent of Farmers Grain. In the event CARRIER uses substitute service, there shall be no obligation on the part of Farmers Grain, or the Shipper or Consignee of any shipment transported by such substitute service to pay CARRIER'S charges. If CARRIER'S freight charges have been paid and a claim for freight charges is made by the party that provided the substitute service against Farmers Grain, Shipper and/or Consignee, CARRIER shall be required to defend, indemnify and hold harmless Farmers Grain, Shipper and/or Consignee against any such claim, including all attorney's fees and Farmers Grain is authorized to pay for said substitute services and deduct the amount paid from any amounts due to CARRIER for transportation services provided pursuant to this Agreement.

4. Customer Specific Addendum:

Farmers Grain and CARRIER may enter into one or more Customer specific written addendum executed by Farmers Grain and CARRIER (each a "Customer Specific Addendum") to this Agreement for the purpose of amending this Agreement to add provisions which will be applicable to a specific named Customer. If any provision contained in a Customer Specific Addendum to this Agreement conflicts with any provision contained in this Agreement, the provision contained in the Customer Specific Agreement shall govern.

5. Insurance:

Throughout the term of this Agreement, CARRIER shall procure and maintain, at its sole cost and expense, insurance with a reputable and financially responsible insurance carrier, with, at minimum, insurance policies with coverage limits of not less than as set forth below. If required by applicable law, regulation or rule to maintain a higher amount than the following, the higher amount shall be the minimum.

A. Base requirements:

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(1) Cargo liability insurance with a minimum per occurrence limit of \$100,000.00 USD to compensate **Farmers Grain**, Shipper, Consignee, or owner of the property transported by **CARRIER**. The cargo shall include a section for refrigeration break down protection ("Reefer break-down") as part of the cargo insurance, if the **CARRIER** owns or leases any "

(2) Automobile liability insurance with a minimum per occurrence limit of \$1,000,000.00

(3) Workers compensation: as required by law; and

(4) Any additional insurance requirements under any and all applicable United States, federal, state, and local laws, regulations and rules.

B. Increased levels; Customer requirements:

(1) **Farmers Grain** customers may require higher levels of insurance than those specified above. Eligibility for hauling freight will depend upon the levels of insurance specified in **CARRIER'S** certificated of insurance. **CARRIER** will not be tendered freight for Customers whose insurance requirements **CARRIER** does not meet.

Such insurance policies shall name **Farmers Grain** as a certificate holder and **CARRIER** shall furnish to **Farmers Grain** written certificates obtained from the insurance carrier showing that such insurance has been procured, is being properly maintained, the expiration date, and specifying that written notice of cancellation or modification of the policies shall be given **Farmers Grain** at least (30) days prior to such cancellation or modification.

6. Indemnification:

CARRIER shall defend, indemnify, and hold harmless **Farmers Grain**, its customers, consignors, and consignees from and against any and all losses, damages, expenses, costs, including reasonable attorney fees, fines, actions and claims for injury to persons (including death) and for damage to property arising out of or in connection with **CARRIER'S** failure to comply with the terms of this Agreement or **CARRIER'S** loading, handling, transportation, unloading or delivery of any shipments made hereunder, unless resulting solely from the negligence or willful act or omission of **Farmers Grain** or its customers and their consignors or consignees.

7. Cargo Claims Liability Standards:

Farmers Grain shall submit to **Carrier** written notice of any cargo claim, including losses or expenses resulting from **Carrier's** delay in providing service, within 90 days (3) months of the delivery date of the shipment, or if no delivery, the date **Farmers Grain** becomes aware of the occurrence resulting in the claim, whichever occurs later. The filing, processing and disposition of all cargo claims shall be governed by 49 C.F.R. 1005 et seq. **Carrier** shall pay, decline or make a firm compromise settlement offer in writing within (60) days after receipt of the claim. **Carrier** shall be liable to **Farmers Grain** for cargo claims occurring while cargo is in the possession or under the control of the **Carrier**. **Carrier** shall be liable to **Farmers Grain** for all economic loss, including consequential damages that are incurred by **Farmers Grain** or any **Farmers Grain** customers for any claim for freight loss, damage or delay. In the event cargo is damaged, the disposition must be approved by **Farmers Grain**. **Carrier** agrees to obtain and follow **Farmers Grain's** and/or **Farmers Grain's** customer's specific instructions regarding disposal or salvage, if any, of the cargo.

8. Shipment Procedures:

A. Communication:

(1) **Farmers Grain** will send **Carrier** a shipment tender by either sending a rate/load confirmation sheet via facsimile ("FAX") or electronic mail ("E-Mail"), through a web tendering process, or Electronic Data Interchange ("EDI"), with the following minimum information. **Farmers Grain** load number, origin, destination, pickup and delivery dates and times, and rate. **Carrier** will acknowledge the acceptance of the shipment tender by either signing the rate/load confirmation sheet and returning it via FAX or E-Mail, or accepting the load via the web tendering process or EDI.

(2) **Carrier**, at its sole cost and expense, will provide **Farmers Grain** with shipment status updates through

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EDI, E-Mail, and/or phone. Information transmitted in this manner shall include: (a) notification upon arrival for scheduled pickup, (b) notification upon arrival at scheduled delivery point, and (c) the time of an event occurrence if between 8:00 a.m. and 5:00 p.m., if after hours by 8:00 a.m. the following morning. In addition, **Farmers Grain** may require in-transit shipment status updates periodically.

B. Receipts and Bills of lading:

Each shipment hereunder shall be evidenced by a receipt in such form as specified by **Farmers Grain** or, alternatively, by a **Farmers Grain** customer, signed by the **Carrier** showing the kind and quantity of product received by **Carrier** at origin. The absence or loss of any such receipt shall not relieve **Carrier** of its obligations and responsibilities with the respect to any shipment made hereunder. Such receipt shall be prima facie evidence of receipt of such shipment in good order and condition unless otherwise noted on the face of such receipt by **Carrier**. Upon delivery of each shipment made hereunder, **Carrier** shall obtain a receipt showing the kind and quantity of product delivered to the consignee of such shipment at the destination specified by **Farmers Grain**, and **Carrier** shall cause such receipt to be signed by the consignee. Any terms, conditions and provisions of the bill of lading, manifest or other form of receipt or contract shall be subject and subordinate to the terms, conditions and provisions of the **Agreement**. **Carrier** shall notify **Farmers Grain** immediately of any exception made on the bill of lading, manifest or other receipt. **Carrier** and **Farmers Grain** agree to maintain their e-documents or original records of transportation performed pursuant to this **Agreement**, and to preserve this **Agreement**, for a period of 3 (three) years following the last shipment transported by the **Carrier**.

9. Rates and Payments:

A. Rates:

(1) Rates and charges for shipments moved under this **Agreement**, shall be agreed to between the parties at the time of the shipment being tendered and confirmed. The rate/load confirmation document will be all-inclusive of any charges for movement of said shipment, including any accessorial services, which may be required or performed by the **Carrier**.

a. If additional charges are incurred, **Carrier** must contact **Farmers Grain** for written approval immediately during business hours, or if after business hours, within the first two business hours of the next day of the occurrence. In the event of potential detention, the **Carrier** must contact **Farmers Grain** at least an hour prior of detention charges being incurred to allow **Farmers Grain** the opportunity to address the occurrence.

(2) **Carrier** and **Farmers Grain** may agree to specific rates which would be outlined in a Rate Addendum to this **Agreement**, if applicable. The rate/load confirmation document will supersede any Rate Addendum.

B. Payment Procedures:

(1) Unless otherwise stated in a Customer Specific Addendum to this **Agreement**, **Carrier** will only bill **Farmers Grain** upon the completion of Services for all freight charges and/or accessorial charges. **Carrier** will invoice **Farmers Grain** via paper, EDI, or through **Farmers Grain's** web portal depending on both parties preferences and capabilities. For paper invoicing, each invoice will reference **Farmers Grain's** load number and include the original Bill of Lading and all required documentation.

(2) **Farmers Grain** shall pay invoices (30) days following receipt of the invoice and any requested documentation, unless otherwise stated in an Addendum to this **Agreement** or an agreed upon quick pay program.

10. Non-Solicitation:

Carrier Shall not solicit shipments from any shipper, consignee, or customer of **Farmers Grain** where (1) the availability of such shipment first became known to **Carrier** as a result of **Farmers Grain's** effort, or (2) the traffic of the shipper, consignor, consignee or customer of **Farmers Grain** was first tendered to **Carrier** by **Farmers Grain**. If **Carrier** breaches this **Agreement** and directly or indirectly solicits traffic from **Farmers Grain's** customers and obtains traffic from such customer during the term of this **Agreement** and for the twelve (12) month period thereafter, **Carrier** shall be obligated to pay **Farmers Grain**, for a period of fifteen (15) months thereafter,

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commission in the amount of fifteen percent (15%) of the transportation revenue resulting from traffic transported for such customer, and Carrier shall provide Farmers Grain with all documentation requested by Farmers Grain to verify such transportation revenue.

11. Modification to Agreement:

With the exception of additional operational requirements and/or shipping instructions set forth in the Confirmation and/or associated written instructions issued by Farmers Grain, no modification of this Agreement and waiver of any of its terms shall be valid or binding unless made in a writing duly executed by the authorized representatives of both parties.

12. Confidentiality

Carrier acknowledges that Farmers Grain deems this Agreement and its Terms and Conditions to be confidential commercial information. Carrier agrees to maintain the confidentiality of this Agreement and will not disclose any of its material terms except to the extent that such disclosure is required by law.

13. Binding Agreement:

This Agreement is binding upon the parties hereto, their successors, and assigns. In any action to enforce this Agreement by Farmers Grain or Farmers Grain's defense of this Agreement and/or any of Farmers Grain's rights and obligations hereunder, Carrier shall be liable for Farmers Grain's attorney fees and costs incurred.

IN WITNESS WHEREOF, CARRIER AND FARMERS GRAIN HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES ON THE DATE FIRST SET FORTH IN THIS AGREEMENT.

Farmers Grain Express, Inc.

Carrier: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

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