



Co-Broker Agreement

Co-Brokerage Agreement Between Licensed Transportation Brokers

This Agreement is made and intended to effective on this ____ of _____, 20____ by and between Warwick Enterprises, Inc. located at 5907 Mount Holly Road, East New Market, MD 21631, a corporation, MC #269920, designated as Broker A and _____, MC # _____, with offices located at _____, designated as Broker B, (collectively, the "Parties"). Parties for purposes of the Agreement shall include the divisions, subsidiaries, and affiliates of the Parties identified herein.

RECITALS

- A. The parties are licensed property brokers as noted above, and authorized by the FMCSA (Federal Motor Carrier Safety Administration, US Department of Transportation) to arrange for the transportation of freight by motor vehicles (including draymen) and desire to work with each other to arrange the transportation of freight on behalf of shipper customers: and
- B. This Agreement shall apply to transactions where the broker providing the shipping customer(s) whose freight is to be transported, is designated as Broker A, and the broker who contracts with the motor carriers (including draymen), is designated as Broker B; and
- C. The terms of this Agreement are intended to apply to all co-brokered transactions between the parties, where either of them may be acting in either capacity, as Broker A or B.
- D. The licenses of the Parties are not subject to threatened, or pending revocation or suspension; each Party has and will maintain during the term of this Agreement the surety bond required of property brokers to be on file with the FMCSA; and the parties are, and will be during the term of this Agreement, in compliance with all applicable state and federal regulations pertaining to the operation of their businesses.
- E. The persons signing this Agreement are authorized to do so and intend to bind their respective parties.

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein set forth, it is agreed:

1. **Broker B Responsibilities:** BROKER B shall be solely responsible for exercising due diligence in selecting carriers for the performance of this Agreement, which includes, but is not limited to: verifying the carrier's operating authority (state and/or federal), obtaining proof of the carrier's insurance coverage, with coverage not less than \$1,000,000.00 for General Liability, \$1,000,000.00 Auto Liability; and \$100,000 cargo, verifying the carrier does not have an "unsatisfactory" safety rating with the FMCSA, executing a written contract with carriers, which includes carriers representation of compliance with all applicable state and federal safety regulations.
2. **Broker B Insurance:** BROKER B, shall procure and maintain its own insurance coverage and shall provide BROKER A with proof of insurance satisfactory to BROKER A.

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3. Prohibition Against Re-Brokering: BROKER B shall not, nor allow a carrier to re-broker, sub-broker, subcontract, assign, interline, or warehouse any shipments hereunder without the prior written consent of BROKER A.
4. Billings and Payments: BROKER A is authorized to, and shall be responsible for, billing and collection from shippers, consignees, and third parties responsible for payment of its charges. BROKER A shall pay BROKER B for agreed upon charges (commissions and carrier charges as specified by rate schedule or load confirmations, which are hereby incorporated by reference) within 30 days of receipt of BROKER B'S invoice and proof of delivery. BROKER B shall pay the motor carrier(s) as required under its written contract(s) with such carrier(s) regardless of whether BROKER A timely pays BROKER B. In the event that payments to carrier(s) are not made in accordance with the payment terms of the BROKER B/carrier agreement(s), and the carrier is in compliance with that agreement, BROKER A may pay the delivering carrier(s) directly upon written notification to BROKER B and, in so doing, shall discharge its entire obligation to pay BROKER B. BROKER B shall not bill or collect freight charges from BROKER A'S customer/shippers, consignees, or other parties responsible for payment, provided BROKER A has complied with the terms of this Agreement.
5. Minimum Shipments: BROKER A shall offer at least one (1) shipment per year to BROKER B.
6. Confidentiality: The parties agree that they shall not use or disclose any of the contents of this Agreement including but not limited to, all sales and marketing information received from each other or from shipper customers or carriers providing transportation services to them, financial information received, brokerage fees charged and received, non-brokerage fees charged and received, amounts charged to and paid by shippers, consignees or others responsible for payment, amounts of freight charges billed and received, and motor carrier rates, given or exchanged with any person or entity except as necessary to conduct the business contemplated hereunder.
7. No Back-Solicitation: In recognition of the fact that each of the Parties has invested substantial effort and money in developing its customers and each Party may separately procure new accounts during the term of this Agreement, the parties expressly agree that:
 - (a.) BROKER B shall not solicit business from nor perform brokerage services directly or indirectly on behalf of any shipper/consignee/third parties first introduced to it by BROKER A, or through the performance of this Agreement. However, if Broker B has conducted business with such shippers/consignees/third parties prior to entering into this Agreement then Broker B can continue to solicit those traffic lanes previously served. "Traffic lanes" for purposes of this Agreement shall mean origination locations to destination locations for both truckload and LTL shipments.
 - (b.) It is further agreed that this non-solicitation provision shall be in force and effect during the term of this Agreement and for a period of one (1) year from the date of the termination of this Agreement for any reason.
 - (c.) In the event of non-compliance with the specific provisions of this paragraph, BROKER B shall, upon discovery of breach by BROKER A, be liable to BROKER A for fifteen percent (12%) of the gross transportation revenue received by BROKER B from said shipper(s) within one (1) year after the date of termination of this Agreement.

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8. Term: Termination: This Agreement shall be in effect for a period of one (1) year beginning with the date of signing by both Parties and shall be automatically renewed for like periods unless terminated by either party for any reason, upon at least thirty (30) days advance written notice. Termination of this Agreement shall not relieve either party from completing and performing their obligations to each other and to carriers and/or shipper customers, or any of the obligations arising out of the terms contained in this Agreement. Unless otherwise provided herein, or agreed in writing in advance, neither party shall be liable to the other for consequential damages of any kind.

9. Indemnification:

(a.) BROKER A shall defend, indemnify, and hold BROKER B and its carrier(s) harmless from any and all claims, loss, damage, expenses, or liability, including reasonable attorney's fees, arising out of BROKER A's performance of this Agreement, or any violation by BROKER A of any of the terms of this Agreement or caused by BROKER A's shipper customer.

(b.) BROKER B Shall defend, indemnify, and hold BROKER A and its shippers, consignees, or third parties responsible for payment, harmless from any and all claims, loss, damage, expenses, or liability, including reasonable attorney's fees, arising out of BROKER B's and/or carrier's performance of this Agreement, or any violation by BROKER B of any of the terms of this Agreement.

(c.) Unless the parties notify each other in writing prior to transportation of any shipment, of greater freight values, the parties indemnification obligations for freight loss and damage not exceed \$100,000.00 for any one shipment.

10. Notice of Claims: The parties shall provide each other with immediate notice of any cargo loss or damage claims as well as any other claims arising out of this Agreement and will cooperate with each other in resolution of any such claim(s).

11. Disputes: In the event of a dispute arising out of this Agreement the Parties shall provide each other with 15 days prior detailed written notice in which to "cure" any alleged default. If no "cure" is completed (or is not substantially in process), arbitration proceedings may be commenced in Dorchester County, Maryland. The prevailing party in any legal proceeding shall be entitled to recover reasonable attorney fees, unless preempted or controlled by federal transportation law and regulations, the laws of the state of Maryland shall be controlling without regard to conflicts of laws principles. The Parties agree venue and jurisdiction shall be in Dorchester County, Maryland.

12. The Parties Agree:

(a.) In the event a dispute cannot be resolved or default cannot be cured, or such resolution/cure is not substantially in progress, within fifteen (15) days of written notice of such dispute by one party to the other, then such dispute shall be settled exclusively by binding arbitration to be conducted in Dorchester County, Maryland, in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA").

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(b.) The parties shall, by mutual agreement, select an arbitrator from a list provided by AAA; such selection shall occur within ten (10) days after the list is provided. This list of arbitrators provided by the AAA shall also include a copy of the potential arbitrator's application form. If the parties are unable to agree on the selection of an arbitrator, each party shall select one arbitrator from such list, and the two arbitrators chosen shall select a third arbitrator from said list who shall be the sole arbitrator to resolve the dispute. The person selected by mutual agreement of the parties or in accordance with the preceding sentence shall be referred to as the "Arbitrator."

(c.) Within thirty (30) days after the Arbitrator has been selected, the arbitration hearing shall be held to resolve the dispute. The award of the Arbitrator shall be made not later than thirty (30) days after the closing of the hearing. Each party shall pay the respective fees of the Arbitrator selected by that party and one-half (1/2) of the fees of the Arbitrator. The award of the Arbitrator shall be conclusive and binding upon both parties and judgment upon the award may be entered in any court of competent jurisdiction.

(d.) The Arbitrator shall have the right to award and include in its award any lawful relief which the Arbitrator deems proper under the circumstances; and the Arbitrator shall award the reasonable attorneys' fees and costs incurred by the prevailing party in connection with the arbitration proceedings.

13. No Assignment: This Agreement may not be transferred, assigned, or pledged by either party without the prior written consent of the other Party. This Agreement shall be binding upon and shall inure to the benefit of the parties, their heirs, executors administrators, successors and assigns.
14. Notices: Unless the Parties notify each other in writing of a change of address, any and all notices required or permitted to be given under this Agreement shall be in writing (certified us mail, return receipt requested, or fax with machine imprint on paper acknowledging successful transmission) and shall be addressed as shown in the signature lines below.
15. Validity/survival: If any provision of the Agreement shall be held invalid, illegal or unenforceable, the remainder of this Agreement shall not be affected and shall remain in full effect. The representations, rights and obligations of the parties shall survive termination of this Agreement for any reason.
16. Waiver: No waiver of any provision of this Agreement, or of the breach thereof, shall be construed as a continuing waiver or shall constitute a waiver of any other provision or breach. This Agreement is for specified services pursuant to 49 U.S.C. 14101 (b). To the extent that the provisions herein are inconsistent with part (b), subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995) the Parties expressly waive all rights and remedies they may have under the Act.
17. Independent Contractors: The relationship of the parties to each other shall at all times be that of independent contractors.
18. Recitals: Headings: The Recitals above are contractual as well as recital, paragraph headings are intended for convenience only, and shall not be considered substantive.

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19. Integration: This Agreement contains the entire understanding of the parties with respect to the subject matter contained herein, and supersedes all prior Agreements and understandings, verbal and/or written between the Parties with respect to such subject matter. The Parties intend that no extrinsic evidence may be introduced to reform this Agreement in any legal or equitable proceeding. This Agreement does not supersede any agreement that either Broker has with any shipper or carrier.

IN WITNESS whereof the parties have signed this Agreement this _____ day of _____ 20_____.

Warwick Enterprises, Inc.

Broker B: _____

Authorized Signature

Authorized Signature

Printed Name

Printed Name

Title

Title

Address

Address

Telephone Number

Telephone Number

Fax Number

Fax Number

Email Address

Email Address

Initials _____
Initials _____