

Bramel Trucking Company

7109 FM 2920 Suite 200

Spring, TX 77379

Phone #281-251-1600

Fax #281-251-1602

1. Certificate of ICC Authority or Texas and/or US DOT Registration
2. W-9 (fully filled out and signed -your checks will be mailed to the address on the W-9)
3. Carrier Profile form listing transportation references with names and valid phone numbers
4. Food Safety Amendment----signed and dated
5. Broker-Carrier Agreement ---signed and dated

Regarding Insurance Certificates:

Please email and follow up with certificate of Insurance, listing BRAMEL TRUCKING as certificate holder. We need the policy to state Cargo with a minimum coverage of \$100,000.00 (reefer breakdown included on policy and state on certificate) and 1M auto Liability with Texas or ICC required coverage. Certificate can be emailed to the following email address:

dispatch@brameltrucking.com

Thank you

Rhonda Heffernan
Operations Manager

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <hr/> <p>2 Business name/disregarded entity name, if different from above</p> <hr/> <p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC</p> <p><input type="checkbox"/> C Corporation</p> <p><input type="checkbox"/> S Corporation</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p>	<p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>
See Specific Instructions on page 3.	<p>5 Address (number, street, and apt. or suite no.) See instructions.</p> <hr/> <p>6 City, state, and ZIP code</p> <hr/> <p>7 List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p>

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
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Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Bramel Trucking Company

7109 FM 2920 Suite 200

Spring, TX 77379

Phone #281-251-1600

Fax #281-251-1602

Company Name: _____

Address: _____ City: _____ State: _____

Federal ID or SS #: _____ MC: _____ SCAC Code: _____

Dispatch Contact: _____

Operations Manager: _____

Accounting Contact: _____

Day Phone Number: _____

Night Phone Number: _____

Email Address: _____

Website: _____

References

Company	Contact	Phone Number
1.		
2.		
3.		

Equipment Type:

Tractors: _____ Trailers: _____ Reefers: _____ Dry: _____

Advances: Yes: _____ No: _____ Safety Rating: _____

Bramel Trucking Company

7109 FM 2920 Suite 200

Spring, TX 77388

Phone #281-251-1600

Fax #281-251-1602

Certificate of Insurance Request Form

Please email a certificate of insurance naming **Bramel Trucking Company** as certificate holder. The certificate needs to include **cargo** (\$100,000.00), **auto liability** (\$1,000,000.00) and **reefer breakdown** with Texas or ICC required coverage. Also, if the policy covers multiple pieces of equipment per schedule, please send the specified schedule.

Please email to: dispatch@brameltrucking.com

Bramel Trucking Co. Inc.
7109 FM 2920 #200
Spring, Texas 77379

Policy Holder:

Company Name:

Address:

City/State/Zip:

**SUMMARY OF MOTOR CARRIER AND DRIVERS' RESPONSIBILITIES WITH RESPECT TO
KROGER'S FOOD SAFETY AMENDMENT**

All Motor - Carriers, Owner-Operators, and Drivers carrying any products for Kroger must comply with Kroger's Procedures to protect its food commodities from contamination. Those procedures are summarized as follows:

1. You must comply with all federal, state and local rules and regulations governing the safe and secure transportation of shipments consisting of groceries, or food products that will ultimately be consumed by humans or animals ("food shipments"). It is your responsibility to become familiar with all of the rules that apply to motor carriers and drivers.
2. You are responsible for the sanitary conditions of food shipments during their transportation and for complying with the shipper and vendor's written instructions, including any temperature set point or temperature range provided by the shipper or the vendor in a physical or electronic form. These written instructions shall apply to all future food shipments of the same goods tendered for the same shipper, unless instructed otherwise in writing.
3. If a shipper or vendor's instructions require a cargo seal, the lack of a seal or seal irregularities will be sufficient to render the shipment unsafe and a total loss.
4. You must verify the temperature of food shipments before loading. You must write the recorded temperature on shipping documents used for pick - up, transport or delivery of goods including any bill of lading.
5. You must ensure that all equipment used in transporting food shipments are in a safe and sanitary condition and appropriate for performance of delivery of the food shipments in question, including ensuring that the equipment is free from contamination, pest infestation, and evidence or prior cargo that could render the food shipments unsafe.
6. If you transport partial load shipments (also known as less than truckload or LTL shipments), you must conduct appropriate inspections and take necessary actions upon receiving the first shipments will not be contaminated by any previously or subsequently loaded cargo; and c) the temperature of any temperature control food shipment will not be materially disrupted.
7. If specified in the shipper and/or vendor's instructions or shipping documents, you must ensure that the cold storage compartments are prepared for safely transporting the food shipments. That includes setting the temperature controls to pre - cool mechanically refrigerated cold storage compartments before offering equipment with auxiliary refrigeration units for transportation of food shipments which require temperature control and to set the operating temperature properly to ensure the food shipments at all times are maintained at the temperature set point or within the temperature range specified on the shipping instructions or shipping document.
8. You must maintain appropriate documents and record related to the transport of all food shipments.

YOUR SIGNATURE AFFIRMS YOUR AGREEMENT TO THESE TERMS AND ACKNOWLEDGEMENT OF YOUR RESPONSIBILITIES RELATED TO COMPLIANCE WITH KROGER'S SANITARY FOOD TRANSPORTATION REQUIREMENTS.

Carrier Name

Carrier Signature

Date

Driver Signature

Date

The Rules and Regulations included but are not limited to: The Food Safety Modernization Act (21 U.S.C. §2201, et. Seq.), the Federal Food, Drug and Cosmetic Act (21 U.S.C. §341, et seq.), the Sanitary Food Transportation Act (49 U.S.C. 5701, et seq.), the U.S. Food and Drug Administration's Final Rule on the Sanitary Transportation of Human and Animal Food (21 C.F.R. §1900, et seq.) and all applicable U.S. Department of Agriculture and Food Safety and Inspection Service regulations (collectively, the "Food Safety Laws").

BROKER-MOTOR CARRIER AGREEMENT

THIS BROKER-MOTOR CARRIER AGREEMENT (the "Agreement") is made this ___ day of _____, 20___, between BRAMEL TRUCKING COMPANY, an Authorized Property Broker (hereinafter the "BROKER") and _____, a Registered Motor Carrier, DOT # _____, MC# _____, located at _____, (hereinafter the "CARRIER").

1. CONTRACT TERM

The term of this Agreement shall be one year from the date hereof and thereafter it shall automatically be renewed for successive one (1) year periods, unless terminated, upon fifteen (15) day's prior written notice, with or without cause, by either Party at any time, including the initial term. In the event of termination of this Agreement for any reason, the Parties shall be obligated to complete performance of any work in progress in accordance with the terms of this Agreement. The provisions as to insurance and indemnity will survive the termination of this agreement as necessary to protect the interests of the BROKER and Shippers.

2. BROKER RESPONSIBILITIES

- a. BROKER agrees to offer from time to time, on a non-exclusive basis and subject to the availability of suitable equipment, shipments to CARRIER to provide transportation services. BROKER's responsibility is limited to arranging for, but not actually performing, transportation of a shipper's freight.
- b. BILLING: BROKER shall conduct all billing services to its customers and shippers.
- c. PAYMENT: BROKER agrees to pay or except to CARRIER's invoice within 30 days of receipt of the fully completed bill of lading or acceptable proof of delivery, provided CARRIER is not in default under the terms of this Agreement. CARRIER agrees to appoint BROKER as its agent for the billing and collection of freight charges and waives any and all rights to demand or pursue payment from any person or entity other than BROKER, including BROKER'S customers, consignors, and consignees. If BROKER has not paid CARRIER's invoice as agreed, and CARRIER has complied with the terms of this Agreement, CARRIER may seek payment from the Shipper or other party responsible for payment, but ONLY after giving BROKER 60 (business days) advance written notice. CARRIER shall not seek payment for services provided hereunder from any Shipper or other entity if Shipper or other entity can prove payment to BROKER.
- d. SET OFF AND WITHHOLDING: BROKER may, at its sole discretion, withhold payment due CARRIER to satisfy any claims or shortages arising from transportation services provided under this agreement, or to satisfy and advances

made to or on behalf of CARRIER, or to satisfy any debt owed by CARRIER to BROKER OR BROKER or BROKER'S customers. This right to withhold or set-off payment to CARRIER may arise if CARRIER fails to acknowledge in writing any underlying claim or debt within thirty (30) days of presentation by BROKER or BROKER'S customer, or if the claim or debt has not been paid or denied for valid reason within ninety (90) days of such presentation.

- e. BOND: BROKER shall maintain a surety bond /trust fund on file with the Federal Motor Carrier Safety Administration (FMCSA) in the form and amount not less than that required by that agency's regulations.

3. CARRIER DUTIES AND RESPONSIBILITIES

- a. CARRIER shall perform the transportation services in a reasonable and workmanlike manner and in compliance with all applicable federal, state and local laws. CARRIER shall perform timely and reliable pick-up and delivery of all shipments in accordance with reasonable schedules communicated by BROKER'S customer.
- b. CARRIER shall have and maintain proper authority from the Federal Motor Carrier Safety Administration ("FMCSA") and any applicable state agency to perform transportation services in intrastate, interstate, and/or foreign commerce. If CARRIER'S operating authority and/or registrations should be revoked, suspended or rendered inactive for any reason, it shall immediately notify Broker.
- c. CARRIER shall have and maintain a "Satisfactory" safety rating from the U.S. Department of Transportation or a substantially equivalent rating under the Carrier Safety Management System implemented under the FMCSA's Compliance Safety Accountability ("CSA") program (unless currently "unrated") and agrees to perform transportation of BROKER'S customer's shipments in compliance with all applicable safety laws and requirements and operate at all times with U.S. DOT qualified drivers. If CARRIER receives a "Conditional" or an "Unsatisfactory" safety rating or is notified or otherwise informed by the FMCSA that Carrier will be receiving a "Conditional" or "Unsatisfactory" safety rating, it shall immediately notify BROKER in writing of same.
- d. If CARRIER is transporting goods and cargo for The Kroger Co., or its subsidiaries and affiliates, CARRIER agrees to comply with the Rules set forth in Kroger's Contract Rules Schedule.
- e. If CARRIER'S equipment is used to transport food waste, medical waste, commercial waste, or any other type of waste material, toxic materials, or similar scrap or salvage materials, such equipment will not be used simultaneously or subsequently to haul BROKER'S customer's finished

products or inbound raw materials associated with the manufacture of BROKER'S customer's products. Prior to loading any equipment all Federal Food and Drug Administration standards for food transport must be satisfied by CARRIER. CARRIER'S equipment must be clean, empty, insect and rodent free, order free, and water tight prior to loading. CARRIER certifies that no vehicle or equipment of CARRIER furnished to Shipper to transport BROKER'S customer's freight shall have ever been used for transportation of either : (a) toxic chemicals (including pesticides, rodenticides and insecticides) or hazardous materials that were not properly packaged and lawfully transported ; or (b) refuse, garbage, trash or any municipal, residual, industrial solid or liquid waste of any kind what so ever, with a hazardous or non-hazardous . The interiors of any equipment used to provide such transportation services will be inspected by BROKER'S customer before loading and unloading to ensure cleanliness, freedom from moisture, odor and infestation of foreign materials which could cause product contamination. BROKER'S customer reserves the right to reject equipment that BROKER'S customer determines unsuitable for use.

- f. CARRIER shall authorize BROKER to invoice BROKER'S customers for transportation services provided by CARRIER. CARRIER shall agree that BROKER is the sole party responsible for payment of its invoices and that, under NO circumstances shall CARRIER seek payment from BROKER'S customer, any consignee, or customer for payment of any freight charges, loading or unloading, detention, fuel surcharges , or any assessorial charges nor shall CARRIER authorize any third party representative (such as a factoring company or a collection agent) to assert such claims on CARRIER'S behalf against such entities.
- g. Any bill of lading or other such form of receipt will be used solely as a receipt for shipment and to identify the kind and quantity of goods, place of pickup and delivery, shipper, and consignee and other information as required by Shipper. Upon delivery of each shipment, CARRIER will obtain a written receipt, signed by or on behalf of consignee, which describes the kind and quantity of goods delivered as well as any damages, shortages and/or overages. CARRIER will provide BROKER with copies of all such receipts upon request of Shipper. The terms and conditions of any freight documentation used by CARRIER shall not supplement, alter or modify the terms of the Agreement between BROKER and CARRIER or BROKER's customer.
- h. CARRIER will maintain its permit and licenses in full force and effect with U.S. DOT and all other applicable regulatory and state agencies during the Term. In the event that all or any portion of CARRIER's permits or licenses are revoked, canceled, suspended, or discontinued by operation of law or otherwise, CARRIER will immediately notify BROKER. If CARRIER fails to so notify BROKER, then BROKER's customer will not be liable for transportation charges or fees for any services provided by CARRIER after the date of

such revocation, cancellation, suspension, or discontinuance.

- i. All transportation services are being provided as "contract carriage" within the meaning of 49 U.S.C. § 13102(4)(B), and BROKER and CARRIER each expressly waive all rights and remedies they may have as to each other under 49 U.S.C., Subtitle IV, Part B (excluding §§ 13703, 13706, 14101 and 14103) to the full extent permitted by 49 U.S.C. § 14101(b)(1), each as amended from time to time, to the extent any such rights and remedies conflict with the terms of the Agreement between BROKER and BROKER's customer.
- j. Effective upon acceptance of a load from BROKER for the BROKER's customer account, CARRIER shall perform the transportation services and shall not subcontract the load to another motor CARRIER or tender it to a property BROKER.

4. RATES AND CHARGES

- a. CARRIER shall receive as compensation for transportation provided under this agreement the rate and charges as agreed upon by CARRIER and BROKER and as contained in the Rate Schedule attached hereto as Appendix A, if any or by a written Load Confirmation Sheet exchanged and agreed upon by authorized representatives of BROKER and CARRIER prior to the loading and transportation of each particular load by CARRIER. Changes to this schedule or memorandum shall also be made as needed and confirmed in writing. This schedule shall also contain the conditions of, and charge for, any additional or accessorial services, which may be required or performed.
- b. Rates may be established or amended verbally in order to meet changing market conditions, BROKER or shipper requirements, as mutually agreed, but such verbal contract shall be confirmed in writing, by email, fax or U.S. mail, if possible, but in any event within five (5) days of the date of movement of the involved freight. Any such additional, modified, or amended rates, changes in rates shall automatically be incorporated herein by this reference. CARRIER shall have 24 hours to object to any rate confirmation or the rate as reflected in confirmation will be binding on CARRIER.
- c. If CARRIER alleges underpayment of applicable freight rates and charges by BROKER, or if BROKER alleges overcharges, over-collection or receipt of duplicate payments by CARRIER, notice of such claims must be given in writing by the aggrieved party to the other party within ninety (90) days after delivery or the first attempted delivery of the involved shipment(s) by CARRIER or discovery of the claim, but in no event will any such claim be asserted more than one hundred eighty days (180) days after the delivery of the shipment or shipments giving rise to such claims. The party receiving any such claim shall process it in accordance with the provisions codified at 49 C.F.R. part 378 as of the effective date of this agreement. Any civil action with respect to such a claim

shall be filed within eighteen (18) months after delivery or the first attempted delivery of the involved shipment(s) by CARRIER, subject to the alternative dispute requirements set forth below.

5. LOSS & DAMAGE CLAIMS

- a. CARRIER shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations adopted by the Federal Motor CARRIER Safety Administration, U.S. Department of Transportation, or any applicable state regulatory agency, for processing all loss and damage claims and salvage;
- b. CARRIER's liability for any cargo damage, loss, or theft from any cause shall be determined under the Carmack Amendment, 49 U.S.C. §14706;
- c. CARRIER shall have the sole and exclusive care, custody and control of the shipments tendered by BROKER from the time CARRIER picks up a shipment until delivery to the consignee. In accordance with 49 USC § 14701 and the case law construing that statute, CARRIER shall be liable to BROKER and BROKER'S customer or Shipper for actual loss and damage to shipments, and for delayed deliveries, arising from CARRIER'S performance of or failure to perform the services required by this Contract; provided, however, that CARRIER shall not be liable for loss, damage, or delay to shipments caused solely by an act of God, public enemy, acts of war, insurrection, riot, inherent vice of the shipment, or the negligence of BROKER or its customer, in which case CARRIER has the burden of proving applicability of the exception. Any seals applied to trailer are not to be broken or removed prior to delivery at destination without prior written consent from BROKER.
- d. CARRIER shall be liable for the full, actual value of the shipments tendered by BROKER to CARRIER. No released value rates, or other limitation of cargo liability, shall be valid or enforceable against BROKER or its customers unless expressly agreed to by BROKER in a signed writing separate from any bill of lading or other delivery receipt issued by CARRIER.
- e. Notwithstanding the terms of 49 CFR 370.9, CARRIER shall pay, decline or make settlement offer in writing on all cargo loss or damage claims within 30 days of receipt of the claim. Failure of CARRIER to pay, decline or offer settlement within this 30-day period shall be deemed admission by CARRIER of full liability for the amount claimed and a material breach of this Agreement.
- f. CARRIER acknowledges and agrees that CARRIER will be, and remain, liable to BROKER or Shipper for meeting performance standards and liability for loss, damage or delay of cargo (whether such loss, damage or delay occurred while such cargo was in the possession of CARRIER, a subcontractor or other person). CARRIER shall be liable to BROKER and BROKER'S customer for the full actual loss of, damage to, or delay of BROKER'S customers' goods

while under CARRIER'S care, custody, or control according to the provisions of 49 USC § 14706. Absent any limitation of liability established by BROKER'S customer, for the purposes of this Agreement, the term "full actual loss" shall mean the actual cost or replacement cost (whichever is greater as determined by BROKER'S customer) to BROKER'S customer of any cargo lost and/or damaged. Except as set forth herein, CARRIER shall agree that the provisions contained in 49 CFR Part 370, et seq. shall govern the processing of claims for loss, damage, injury or delay to property, and the processing of salvage.

- g. CARRIER shall immediately notify BROKER of any cargo damage, shortage/loss or delay. Failure to comply with this notice provision shall void any limitation of liability and cause CARRIER to be responsible for the full actual value of any damages or shortages/loss or delay of BROKER'S customer's goods without regard to BROKER'S customer's ability to mitigate damages;
- h. The determination regarding the acceptability and/or salvageability of any food product intended for human consumption transported by CARRIER shall be within the sole discretion of BROKER'S customer and shall be binding on CARRIER; and
- i. The determination regarding the salvageability of any damaged cargo (other than food products) shall be determined by BROKER'S customer and CARRIER shall be liable for all costs and expenses associated with BROKER'S customer's mitigation of damages including any inspection; storage; preparation of the cargo for reshipping; and reshipping, if applicable.
- j. CARRIER will have no lien or will accordingly waive its right to any lien upon any shipment of BROKER'S customer's goods or portion thereof.
- k. CARRIER shall agree that any BROKER'S customer's freight which has been tendered to the CARRIER intact and released by the CARRIER in a damaged condition, visible or concealed, or lost or destroyed subsequently to such tender, shall be conclusively presumed to have been lost, damaged or destroyed by the CARRIER, unless the CARRIER can establish otherwise.

6. INSURANCE

CARRIER agrees to procure at its sole cost and expense and maintain throughout the term of this Agreement the minimum insurance coverages set forth below, unless otherwise agreed between the Parties. All insurance companies providing the required coverage's must have an AM Best rating of A- or greater.

- a. Automobile/Vehicle Liability insurance providing coverage against liabilities including injuries resulting in death, environmental restoration, and damage to

physical property in a combined single limit of not less: Not less than One Million Dollars (\$1,000,000.00);

- b. All Risk Broad Form Motor Truck Cargo Legal Liability Coverage in an amount not less than \$100,000 per occurrence/per shipment, insuring CARRIER against liability for loss of or damage to commodities while in the custody, possession and control of CARRIER. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims including, but not limited to, exclusions for unattended or unattached trailers, theft, commodities transported under this Agreement, refrigeration breakdown or lack of refrigerator fuel.
- c. Workers' Compensation with limits required by laws of the states in which transportation services will be performed for its employees in accordance with statutory requirements that shall include a waiver of subrogation in favor of The Kroger Co., which must be shown on the certificate and will ensure that all workers' compensation payments are current for all applicable jurisdictions.
- d. Except for the higher coverage limits which may be specified above, the insurance policies shall comply with minimum requirements of the Federal Motor CARRIER Safety Administration and any other applicable regulatory state agency. Nothing in this Agreement shall be construed to avoid CARRIER's liability due to any exclusion or deductible in any insurance policy;
- e. CARRIER's liability for cargo loss or damage described in Section 5 above and its indemnification described in Section 14 below will not be reduced or limited by the actual insurance policy limits that CARRIER chooses to purchase.
- f. Such insurance policies shall be primary and the commercial and general liability and auto/vehicle policies shall list BROKER as certificate holder. CARRIER shall provide BROKER with certificates conforming with these requirements and additional insured endorsements.
- g. If at any time CARRIER fails to maintain the aforementioned insurance requirements or provide proof of compliance with any of the provisions of this paragraph, BROKER may in its sole discretion terminate this Agreement without advance notice to CARRIER, and any such termination may, at BROKER's option, be confirmed in writing. However, termination pursuant to this provision is effective regardless of whether any notice is provided to CARRIER in writing or otherwise.
- h. In the event of cancellation, termination or material modification of any insurance policy required hereunder, written notice of such event shall be provided to BROKER at least thirty (30) days prior to the effective date of such cancellation, termination or material modification.

7. ASSIGNMENT OF RIGHTS

CARRIER automatically assigns to BROKER all its rights to collect freight charges from Shipper or any responsible third party on receipt of payment from BROKER.

8. INDEPENDENT CONTRACTOR

- a. It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor and that no employer/employee relationship exists, or is intended. By this Agreement the Parties do not intend to provide for division of profits between CARRIER, BROKER and/or BROKER'S customer or any Shipper, or to clothe BROKER and/or BROKER'S customer or any Shipper with joint control over CARRIER'S performance of the Services, or otherwise to create a *de facto* or *de jure* joint venture, joint enterprise or partnership between CARRIER, BROKER and/or CARRIER'S customer or any Shipper. Under no circumstances shall employees or agents of CARRIER be deemed employees or agents of BROKER, BROKER'S customer or any Shipper, nor shall BROKER, BROKER'S customer or any Shipper be liable for any wages, fees, payroll taxes, assessments or other expenses relating to employees or agents of CARRIER.
- b. BROKER has no control of any kind over CARRIER, including but not limited to routing of freight, and nothing contained herein shall be construed to be inconsistent with this provision. CARRIER maintains exclusive authority and control over CARRIER's safety practices, safety management, driver supervision and compliance with applicable laws and regulations including any applicable Federal Motor CARRIER Safety Regulations in connection with transportation services provided under this Agreement.
- c. CARRIER shall have sole and exclusive control over the manner in which CARRIER and its employees or contractors perform the transportation services provided hereunder. Is solely responsible for any and all management, governing, discipline, direction and control of its employees, owner/operators, and equipment with respect to operating within all applicable federal and state legal and regulatory requirements to ensure the safe operation of CARRIERS vehicles, drivers and facilities. CARRIER and BROKER agree that safe and legal operation of the CARRIER and its drivers shall completely and without question govern and supersede any service requests, demands, preferences, instructions, and information from BROKER or BROKER's customer with respect to any shipment at any time.
- d. CARRIER shall engage and employ such individuals as it may deem necessary for performance of the services required hereunder. It is understood and agreed that such individuals shall be considered employees of or independent contractors directed and controlled solely by CARRIER.

- e. CARRIER assumes full responsibility and liability for payment of the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, old age pensions, workers' compensation, social security, with respect to persons engaged in the performance of its transportation services hereunder. BROKER shall not be liable for any of the payroll-related tax obligations specified above and CARRIER shall indemnify, defend, and hold BROKER harmless from any claim or liability imposed or asserted against BROKER for any such obligations.

9. NON-EXCLUSIVE AGREEMENT

CARRIER and BROKER acknowledge and agree that this contract does not bind the respective Parties to exclusive services to each other. Either party may enter into similar agreements with other CARRIERS, BROKERS, or freight forwarders.

10. WAIVER OF PROVISIONS

- a. Failure of either Party to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of either Party to thereafter enforce such a term or provision.
- b. This Agreement is for specified services pursuant to 49 U.S.C. §14101(b). To the extent that terms and conditions herein are inconsistent with Part (b), Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995), the Parties expressly waive any or all rights and remedies they may have under the Act.

11. NO BACK SOLICITATION

- a. Unless otherwise agreed in writing, CARRIER shall not solicit or accept freight shipments for a period of 12 month(s) following termination of this agreement for any reason, from any shipper, consignor, consignee, or other customer of BROKER, when any shipments from or for such shippers, consignor, consignee or other customer of BORKER were first tendered to CARRIER by BROKER.
- b. In the event of breach of this provision, BROKER shall be entitled, for a period of 24 months following delivery of the last shipment transported by CARRIER under this Agreement, to a commission of 25 percent (25%) of the gross transportation revenue (as evidenced by freight bills) received by CARRIER for the transportation of said freight as liquidated damages. Additionally, BROKER may seek injunctive relief and, in the event, it is successful, CARRIER shall be liable for all costs and expenses incurred by BROKER, including, but not limited to, reasonable attorney's fees.

12. CONFIDENTIALITY

- a. Except to the extent required by law, or as required to perform the services set forth herein, neither Party shall disclose to third parties (other than to freight bill auditors, prospective capital providers, and outside professionals, if such parties agree to similar confidentiality terms) either the terms of this Agreement or any confidential or proprietary information either Party learns about the other in the course of performing Services under this Agreement, including but not limited to software, business methods, customer lists, or the rates, valuation, origin, destination and consignee identity for any shipment within the scope of the Services without written consent of the other party.
- b. In the event of violation of this Confidentiality paragraph, the Parties agree that the remedy at law, including monetary damages, may be inadequate and that the Parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating Party from further violation of this Agreement in which case the violating Party shall be liable for all costs and expenses incurred, including but not limited to reasonable attorney's fees.

13. MODIFICATION OF AGREEMENT

This Agreement may not be amended, except by mutual written agreement, or with respect to rates and charges, as set forth herein.

14. INDEMNITY

- a. **To the extent permissible under applicable federal and state law, CARRIER shall defend, indemnify and hold-harmless BROKER and BROKER'S customers (including their respective officers, agents, and employees) from any losses, claims, liability, actions or damages, arising out of or related to CARRIER or its employees, agents, independent contractors and/or drivers' performance of services under this Agreement, including but not limited to their negligence, gross negligence or willful or wanton acts or omissions and/or breach of contract, and including but not limited to cargo loss and damage, theft, delay, damage to property, and personal injury or death.**
- b. **CARRIER shall indemnify, defend and hold-harmless BROKER and BROKER'S customers (including their officers, agents, and employees) from any losses, claims, liability, actions or damages brought by CARRIER, its employees, agents, independent contractors, drivers, and/or insurers for damage to property, personal injury or death of CARRIER, its employees, agents, independent contractors, drivers, including but not limited to any workers compensation claims, wage claims, employment disputes, or subrogation claims.**
- c. **CARRIER shall indemnify, defend and hold-harmless BROKER and BROKER'S customers (including their officers, agents, and employees) from**

any claim or demand made by any employees, agents, independent contractors, drivers, subcontractor of CARRIER or other party related in any manner to payment (or non payment) for transportation services related to a shipment tendered under the agreement.

- d. CARRIER agrees to indemnify BROKER and/or its customers for any fines, costs, claims, liability or expenses that either may incur that arise out of violations of any applicable laws, rules, and/or regulations during CARRIER'S performance under this Contract.
- e. CARRIER shall be responsible for and pay any insurance deductible and costs incurred as a result or shortage of, loss of, or damage to cargo of BROKER or its customers, or third parties as well as property damage and bodily injury sustained or claimed by third parties which arises from or is related in any way to CARRIER'S's performance under this Agreement. Contractor agrees to pay, and authorizes Bramel Trucking Co.,, Inc. to deduct from any amount owing or which may become owing to Contractor and pay to such claimant, as BROKER in its absolute discretion deems appropriate, the full amount of any such claims, damages or related costs.
- f. "Losses" includes but is not limited to any and all losses, liabilities, obligations, personal injury, bodily injury, property damage, loss or theft of property, damages, penalties, actions, causes of action, claims, suits, demands, costs and expenses of any nature, reasonable attorney's fees and paralegal fees and other cots of defense, investigation and settlement. Costs of containment, clean up and remediation of spills, releases or other environmental containment costs and costs of enforcement of indemnity obligations.

G. UNLESS PROHIBITED BY APPLICABLE LAW, CARRIER'S INDEMNITY OBLIGATIONS SET FORTH HEREIN SHALL INCLUDE INDEMNITY FOR ANY CLAIMS, LOSS OR DAMAGES ARISING FROM OR RELATED TO THE NEGLIGENCE, FAULT OR LIABILITY BROKER OR ITS AGENTS OR ITS EMPLOYEES.

15. SUPREMACY PROVISION

CARRIER acknowledges and agrees that any term, condition and/or provision contained in its Transportation Documents not specifically agreed to by BROKER in writing and attached to this Agreement are not a part of this Agreement and are not binding on BROKER or its customer. CARRIER further acknowledges and agrees that any term, condition and/or provision contained in its Transportation Documents are subordinate to the terms conditions and/or provisions of this Agreement, and that to the extent a conflict exists, the terms conditions and/or provisions of this Agreement control.

16. SEVERANCE

In the event any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of this Agreement for any reason.

17. COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which shall be deemed to be a duplicate original hereof.

18. FAX CONSENT

The Parties to this Agreement are authorized to fax to each other at the numbers shown herein, (or otherwise modified in writing from time to time) shipment availabilities, equipment and rate promotions, or any advertisements of new services.

19. ENTIRE AGREEMENT

Unless otherwise agreed in writing, this Agreement contains the entire understanding of the Parties and supersedes all verbal or written prior agreements, arrangements, and understandings of the Parties relating to the subject matter stated herein. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

20. DISPUTE RESOLUTION

The Parties agree that this Agreement is being entered into in good faith and that if a dispute arises in its application or interpretation that they shall attempt to resolve said dispute between themselves. If such efforts fail, the Parties agree to submit such claims or disputes to mediation with an experienced mediator in Webb County, Texas with the costs and expenses to be paid by the party incurring same, except with respect to mediation fees which shall be divided and paid equally, prior to the filing of any suit by either Party against the other, unless such provision is subsequently waived in writing by both parties. This mediation requirement shall not apply to claims for indemnity.

21. CHOICE OF LAW, VENUE, & JURISDICTION

Should Parties need to resort to litigation, following compliance with the immediate preceding paragraph, to resolve a dispute, the Parties agree that this agreement shall be deemed to be entered into in Harris County, Texas and services will be deemed to have been performed there. All questions concerning the construction, interpretation, validity and enforceability of this Agreement in a court of law shall be subject to and governed by the laws of the State of Texas, irrespective of the fact that one or more of the Parties may be or may become a resident of a different state. The Parties agree that any and all

disputes under this Agreement shall be filed in the appropriate state and federal courts located within Harris County, Texas. CARRIER hereby submits itself to the personal jurisdiction and venue of the federal and state courts located in Houston, Harris County, Texas. CARRIER hereby waives any claims or objections that such courts will be improper or inconvenient forums.

22. NOTICES

- a. All notices provided or required by this Agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax.
- b. The parties shall promptly notify each other of any claim that is asserted against either of them by anyone arising out of or related to the performance of this Agreement or Services hereunder.
- c. Notices sent as required hereunder, to the addresses shown below shall be deemed sent to the correct address, unless the Parties are notified in writing of any changes in address.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, we have signed this Agreement on the dates reflected below, to be effective on the date and year first shown above.

Bramel Trucking Company
BROKER

CARRIER

Klicciardo

Authorized Signature

Krystal Licciardo

Printed Name

Assistant Manager

Title

Date

7109 FM 2920 Suite #200 Spring, TX 77379

Address

281-251-1602

281-251-1600

Fax

Phone

dispatch@brameltrucking.com

Email

Authorized Signature

Printed Name

Title

Date.

Address

Fax

Phone

Email