

Transportation Agreement

THIS TRANSPORTATION AGREEMENT (this "Agreement") is entered into on this _____ (the "Effective Date") by and between _____ (hereinafter called "Customer") having an office at _____ and KBL Transport, Inc., an Illinois company, (hereinafter called "KBT").

W I T N E S S E T H:

WHEREAS, KBT transports property as a motor carrier and is duly registered as a contract carrier with the FMCSA in Docket No. MC 725473 as may be amended from time to time; and

WHEREAS, Customer desires to hire the KBT to perform services for Customer that would involve the transportation of its goods;

THEREFORE, in consideration of the mutual agreements, conditions, covenants, promises, undertakings set forth in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree to the following terms and conditions:

1. Term and Termination

- a. Term: This Agreement shall be automatically renewed for successive periods of twelve (12) months from the effective date above unless cancelled by either party in accordance with the provisions of this Agreement.
- b. Termination: Either party to this Agreement may cancel or terminate this Agreement either (i) by written prior notice to the other, given at least thirty (30) days in advance, if the other party breaches or fails to meet any of its obligations hereunder, and fails to cure such breach or failure within said thirty (30) day period, or (ii) by prior written notice to the other party, given at least ten (10) days in advance, if the other party (a) commences any proceeding relating to its reorganization, dissolution or liquidation; (b) discontinues its business, becomes insolvent or fails to pay obligations as they become due, or (iii) by sixty (60) days prior written notice if terminated for any other reason. KBT agrees that it shall maintain a copy of this Agreement on file for a period of at least one (1) year after the expiration or earlier termination of this Agreement.

2. KBT's Operations

- a. KBT transports property by motor carriage for its customers and is duly registered as a contract carrier of property with the FMCSA in Docket No. MC 725473-P as may be amended from time to time.
- b. Governing Publications: The transportation of any and all cargo shall be subject to Rules and Regulations Tariff KBT200, as made available for public review via the Internet at www.kblmi.com, and by this reference incorporated herein as though fully set forth, in haec verba.

3. KBT's Insurance

- a. KBT hereby represents that, at its sole cost and expense, it maintains insurance policies for liability, cargo, auto, property damage, and personal injury insurance under such terms as will meet the requirements of all laws and applicable government bodies and agencies. KBT shall provide Customer upon request with written evidence of such insurance on an annual basis. Such insurance shall be maintained in amounts of not less than the following:
 - \$500,000-Worker's Compensation
 - \$1,000,000-Public Liability and Property Damage – Comprehensive General Liability
 - \$1,000,000-Automobile Liability Insurance
 - \$50,000-Cargo insurance per vehicle

4. Mutual Indemnification

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- a. To the maximum extent permitted by law, both parties agree to indemnify, defend and hold harmless each other and their agents, contractors, and employees from and against any and all claims, actions, losses, damages, expenses, judgments, and costs (including reasonable attorney fees and costs) resulting from or arising out of damage or injury to persons (including employees, agents, or subcontractors of Customer) or property, caused in whole or in part by the willful conduct, error, omission or negligent act of either party or its directors, officers, employees, agents or subcontractors in the performance of this Agreement or any breach of any term of this Agreement.

5. Customer Warranty

- a. The Customer is responsible for and warrants their compliance with the following: (1) The information stated on shipping documentation is complete and accurate, that each package and/or article is properly and completely described on the shipping documentation and is adequately packaged to protect the enclosed goods to ensure safe transportation to withstand the normal rigors and perils of transportation, (2) Customer is in compliance with all applicable laws, rules, and regulations including but not limited to customs laws, import and export laws, hazardous materials or dangerous goods regulations, and governmental regulation of any country to, from, through or over which the shipment may be carried, (3) Any individual or entity acting on behalf of the Customer in scheduling shipments hereunder warrants that it has the right to act on behalf of the Customer and the right to legally bind Customer, (4) Customer agrees to indemnify KBT for any and all claims or damages incurred as a result of Customer's failure to comply with the provisions of these Rules and Regulations.

6. Independent Contractor

- a. KBT and Customer agree that the employees of the KBT, in performing services hereunder, shall be and remain exclusively the employees of KBT and shall not, for any purpose, be considered employees of Customer. Customer shall not be responsible for any act or omission of said employees. KBT shall in no event be considered an employee or agent of Customer, but to the contrary, shall be deemed and treated as an independent contractor of Customer and agrees that it shall not have any right or power to incur any debt, obligation or liability on behalf of the Customer, without the express written consent, or at the direction of, Customer.

7. Declared Value, Limits of Liability & Claims

- a. In an effort to provide KBT's Customer with quality service and competitive rates, commodities are shipped at less than full value. KBT encourages its Customer to review this publication as items are subject to limitations of liability, released value or other requirements. KBT DOES NOT PROVIDE INSURANCE COVERAGE OF ANY KIND. Therefore, Customer is further encouraged to evaluate their personal or corporate insurance policies so they may ship their goods at the lowest possible rate while still being insured for full value.
- b. Unless otherwise specified herein, liability on all shipments shall be limited to the higher of \$50.00 per shipment or \$0.50 per pound of cargo lost or damaged plus transportation charges applicable to that part of the shipment lost or damaged, unless at the time of tender, the Customer declares a higher value and signs in the space designated on the bill of lading. Liability shall in no event exceed the Declared Value of the shipment plus applicable freight charges, or the actual amount of loss or damage, whichever is lower.
- c. In the absence of advance arrangements, KBT shall not be liable for damages in excess of \$5,000.00 per shipment, regardless of the value declared.
- d. The Customer may make advance arrangements for liability coverage greater than \$5,000.00 by requesting the increased limit, which must be subsequently approved in writing by KBT. If the Customer executes a release rate in excess of \$5,000.00 per shipment without having made advance arrangements and obtaining written approval, and the shipment is inadvertently accepted by KBT, it shall be considered released at \$5,000.00 per shipment and will move subject to such limitations, applicable rates, and declared value charges.

- declared value charges.
- e. The Customer understands and agrees that the rates do not include insurance or other compensation for loss, other than as expressly provided herein and limited hereby. Accordingly, the Customer agrees that in the event it desires coverage for loss, it will obtain insurance, and that said insurance will contain a waiver of subrogation clause waiving any subrogation rights against KBT (or and on behalf of such insurance carrier). In the event that the Customer fails to obtain a waiver of subrogation, the Customer will defend, indemnify and hold harmless KBT with respect to claims made by the Customer or third parties acting as subrogees of the Customer.
 - f. REPORTING OF CLAIMS - With respect to any and all incidents of claims, the following shall strictly apply. Failure to abide by the following procedures will result in declination of a claim. Annotations of damage and/or loss on the delivery receipt DOES NOT qualify as notice. A written notice of intent to file a loss and/or damage claim must be filed within the time limits below.
 - i. Obvious damage and/or loss as annotated on the delivery receipt must be reported within 30 calendar days following delivery;
 - ii. Concealed damage and/or loss (not annotated on delivery receipt) must be reported within 10 calendar days following delivery, or if perishables, verbally within 48 hours;
 - iii. Shipments lost in their entirety must be reported within 30 calendar days of the anticipated date of delivery;
 - iiii. A request for proof of delivery does not constitute the filing of a claim. Moreover, documents not constituting claims include, but are not limited to, bad order reports, appraisal reports of damage, delivery receipts, inspection reports issued by shipper or its inspection agency and notations of shortages or damages or both on freight bills, delivery receipts or other documents.
 - g. All formal claims for cargo loss and/or damage must be submitted in writing and must be received by KBT within 270 days after the date of delivery or anticipated date of delivery. The formal claim must include complete shipper and consignee information, as well as KBT tracking number, date of shipment, total weight and applicable weight of the damaged or lost portion of the shipment, total number of pieces and applicable number of pieces damaged and/or lost. Documentation supporting the claim must include a cost invoice for the original shipment, estimates or invoices for repair or a statement as to why repairs cannot be made, and may include purchase orders, expense statements, appraisals or other records. The filing of a lawsuit does not constitute compliance with these provisions. Failure to abide by these procedures will result in denial of a claim.

8. Force Majeure

- a. Either party's performance hereunder may be suspended and its obligation hereunder excused in the event and during the period that its performance is prevented by a cause or causes beyond its reasonable control, such as, by way of example and not limitation, acts of God; acts of war; riots; fire; explosions; floods or other adverse weather conditions; failure of power, labor troubles; strikes; judicial, administrative or governmental laws, regulations, requirements, rules, orders or actions; national defense requirements, or other reasons of a like nature beyond the reasonable control of the party delayed in performing its obligations required under the terms of this agreement.
- b. In the event of an occurrence of a Force Majeure, the affected party shall notify the other party immediately in writing, setting forth the particulars of the circumstances, its expected duration, and the steps it is taking to overcome the cause. Notice shall be given after the effect of such occurrence has ceased. Notwithstanding anything herein to the contrary, the provisions of this Section VIII shall not delay or postpone any of the rights specifically granted to either party terminate to this Agreement.

9. Credit Terms

- a. Credit terms shall be 30 days from the date of billing
- b. In the event that payment is past due, KBT reserves the following rights:
 - i. Any outstanding invoice, which is unpaid 30 days from the date of billing, is subject to an additional charge at a rate of 1½ percent per month of the outstanding balance, or the highest rate of interest permitted by applicable law, whichever is greater.
 - ii. Any outstanding invoice, which is unpaid 60 days from the date of billing, is subject to an

additional charge at a rate of 1½ percent per month of the outstanding balance, or the highest rate of interest permitted by applicable law, whichever is greater.

- ii. Any outstanding invoice, which is unpaid 60 days from the date of billing, is subject to an additional charge at a rate of 1½ percent per month of the outstanding balance, or the highest rate of interest permitted by applicable law, whichever is greater, and the customer shall forfeit any and all discount rates, skid rates or spot pricing.
- iii. In the event KBT engages a collection agent and/or attorney to collect unpaid balances, or to enforce any part of this Agreement, the Customer acknowledges that by entering into this Agreement, it shall pay all reasonable costs including, but not limited to, professional fees and costs, 33% of the balance due or a flat fee of \$200.00, whichever is greatest. KBT shall have a lien on any cargo shipped for the customer's failure to pay for charges payable on account of any shipment pursuant to this Agreement. KBT may refuse to surrender possession of the cargo until such charges are paid.

10. Other Provisions

- a. Entire Agreement: This Agreement constitutes the entire agreement between the parties. All provisions of this Agreement shall be strictly complied with and conformed to by the parties, and no amendment to this Agreement shall be made except upon the written consent of both the parties.
- b. No Construction against Drafter. Each Party has participated in negotiating and drafting the Agreement, so if an ambiguity or a question of intent or interpretation arises, the Agreement is to be construed as if the Parties had drafted it jointly as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement.
- c. Effect of Waiver. The failure of either Party to enforce any of the rights given to it under the Agreement shall not be construed as a waiver of that right.
- d. Non-Disclosure: Except as required by law, the terms and conditions of this Agreement and information pertaining to any shipment or service hereunder shall not be disclosed by either party hereto to persons other than its directors, officers, employees, agents, attorneys, accountants, or auditors.
- e. Notices: All notices which may be given in connection with this Agreement or required by law or regulation shall be in writing, shall be sent postage prepaid by the party desiring to give such notice to the other party; by registered or certified mail, return receipt requested; by reliable overnight courier; or by making personal delivery thereof to such other party, as such other party may from time to time specify in writing. All such notices shall be addressed to such party at its address shown as follows:

Customer	KBT:
	KBT Logistics Management, Inc.
C/O:	C/O Kevin Blazyk
Title:	President
	PO Box 5026
	Woodridge, IL 60517

- f. Validity of Provisions: If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired.
- g. Venue: This Agreement shall be governed by and construed in accordance with, the laws of the State of Illinois, without regard to conflicts of law principles thereunder and except to the extent expressly preempted by federal law. The parties acknowledge that by entering into this agreement, they have sufficient contact with the State of Illinois to vest jurisdiction therein and hereby forever waive any objection to exclusive Illinois jurisdiction, agreeing to proper venue within Dupage County, Illinois, agree to be subject to the jurisdiction of the State of Illinois, and waive any right to a trial by jury.
- h. No Assignment: This Agreement may not be assigned by either party without the prior written consent of the other party.
- i. Authority to Execute: The individual or individuals that execute this Agreement represent that they are duly authorized to execute this Agreement on behalf of the entity and that no other signature, act or authorization is necessary to bind such entity to the provisions of this Agreement.

authorized to execute this Agreement on behalf of the entity and that no other signature, act or authorization is necessary to bind such entity to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Customer:	KBL Transport, Inc.
Printed Name:	Printed Name:
Title:	Title:
Signature:	Signature: