

## **BROKER CARRIER AGREEMENT**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, 200\_\_\_\_, by and between CD Logistics, LLC ("BROKER") and \_\_\_\_\_ ("CARRIER").

### **I.**

#### **Recitals**

A. BROKER is a licensed transportation broker that controls the transportation of freight under its contractual arrangements with various consignors and consignees (the "Customer");

B. CARRIER is authorized to operate in inter-provincial, interstate and/or intrastate commerce and is qualified, competent and available to provide for the transportation services required by BROKER.

### **II.**

#### **Agreement**

1. **TERM.** The Term of this Agreement shall be for one (1) year and shall automatically renew for successive one (1) year periods; provided, however, that this Agreement may be terminated at any time by giving thirty (30) days prior written notice.

2. **CARRIER'S OPERATING AUTHORITY AND COMPLIANCE WITH LAW.** CARRIER represents and warrants that it is duly and legally qualified to provide, as a contract carrier, the transportation services contemplated herein. CARRIER further represents and warrants that it does not have a conditional or unsatisfactory safety rating issued from the U.S. Department of Transportation, and further agrees to comply with all federal, state and local laws regarding the provision of the transportation services contemplated under this Agreement. In the event that CARRIER is requested by BROKER to transport any shipment required by the U.S. Department of Transportation to be placarded as a hazardous material, the parties agree that the additional provisions included in Appendix A shall apply for each such shipment.

3. **PERFORMANCE OF SERVICES.** CARRIER's services under this Agreement are specifically designed to meet the distinct needs of BROKER under the specified rates and conditions set forth herein. CARRIER shall transport all shipments provided under this Agreement without delay, and all occurrences which would be probable or certain to cause delay shall be immediately communicated to BROKER by CARRIER. \_\_\_\_\_ initial here

This Agreement does not grant CARRIER an exclusive right to perform the transportation related services for BROKER or its Customer.

4. **RECEIPTS AND BILLS OF LADING.** Each shipment hereunder shall be evidenced by a Uniform (Standard) Bill of Lading naming CARRIER as the transporting 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 BROKER or the Customer, 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 this Agreement. CARRIER shall notify BROKER immediately of any exception made on the bill of lading or delivery receipt.

5. **CARRIER'S OPERATIONS.** CARRIER shall, at its sole cost and expense: (a) furnish all equipment necessary or required for the performance of its obligations hereunder (the "Equipment"); (b) pay all expenses related, in any way, with the use and operation of the Equipment; (c) maintain the Equipment in good repair, mechanical condition and appearance; and (d) utilize only competent, able and legally licensed personnel. CARRIER shall have full control of such personnel; shall perform the services hereunder as an independent contractor; and shall assume complete responsibility for all state and federal taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, pension and social security insurance) and any other financial obligations arising out of the transportation performed hereunder.

6. **INDEMNITY.** CARRIER shall defend, indemnify, and hold BROKER harmless from and against all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the performance or breach of this Agreement by CARRIER, its employees or independent contractors working for CARRIER (collectively, the "Claims"), including, but not limited to, Claims for or related to personal injury (including death), property damage and CARRIER's possession, use, maintenance, custody or operation of the Equipment; provided, however, that CARRIER's indemnification and hold harmless obligations under this paragraph will not apply to any portion of such claim attributable to the tortious conduct of BROKER.

7. **INSURANCE.** CARRIER shall procure and maintain, at its sole cost and expense, the following insurance coverages:

- (a) Public liability and property damage insurance with a reputable and financially responsible insurance company insuring CARRIER in an amount not less than \$1,000,000.00 (U.S. Dollars) per occurrence. \_\_\_\_\_ initial here

- (b) All Risk Broad Form Motor Truck Cargo Legal Liability insurance in an amount not less than \$100,000.00 (U.S. Dollars) per occurrence. Such insurance policy shall name CARRIER and BROKER as insureds and provide coverage to BROKER, the Customer or the owner and/or consignee for any loss, damage or delay related to any property coming into the possession of CARRIER under this Agreement. The coverage provided under the policy shall have no exclusions or restrictions of any type that would foreseeably preclude coverage relating to cargo claims.
- (c) Statutory Workers' Compensation Insurance and Employee Liability coverage in such amounts and in such form as required by applicable state law.
- (d) CARRIER shall furnish to BROKER 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 to BROKER at least thirty (30) days prior to such cancellation or modification. Upon request, CARRIER shall provide BROKER with copies of the applicable insurance policies.

8. **FREIGHT LOSS, DAMAGE OR DELAY.** CARRIER shall have the sole and exclusive care, custody and control of the Customer's property from the time it is delivered to CARRIER for transportation until delivery to the consignee accompanied by the appropriate receipts as specified in Paragraph 4. CARRIER assumes the liability of a common carrier (i.e. Carmack Amendment liability) for loss, delay, damage to or destruction of any and all of Customer's goods or property while under CARRIER's care, custody or control. CARRIER shall pay to BROKER, or allow BROKER to deduct from the amount BROKER owes CARRIER, Customer's full actual loss for the kind and quantity of commodities so lost, delayed, damaged or destroyed. CARRIER shall be liable to BROKER for all economic loss, including consequential damages, that are incurred by BROKER or the Customer for any freight loss, damage or delay claim. Payments by CARRIER to BROKER or its customer, pursuant to the provisions of this section, shall be made within thirty (30) days following receipt by CARRIER of BROKER's or Customer's invoice and supporting documentation for the claim.

9. **WAIVER OF CARRIER'S LIEN.** CARRIER shall not withhold any goods of the Customer on account of any dispute as to rates or any alleged failure of BROKER to pay charges incurred under this Agreement. CARRIER is relying upon the general credit of BROKER and hereby waives and releases all liens which CARRIER might otherwise have to any goods of BROKER or its Customer in the possession or control of CARRIER. \_\_\_\_\_ initial here

10. **PAYMENTS.** CARRIER will charge and BROKER will pay for transportation services performed under this Agreement the rates and charges as shown on separate Rate Confirmation Sheets to be signed and agreed to by CARRIER and BROKER before each shipment made under this Agreement. CARRIER represents and warrants that there are no other applicable rates or charges except those established in this Agreement or in any Rate Confirmation Sheet signed by BROKER. Payment by BROKER will be made within twenty-one (21) working days of receipt by BROKER of CARRIER's freight bill, bill of lading, clear delivery receipt, and any other necessary billing documents enabling BROKER to ascertain that service has been provided at the agreed upon charge. In the event service is provided and it is subsequently discovered that there was no applicable rate in the existing Schedule of Rates or supplements, the parties agree that the rate paid by BROKER and collected by CARRIER shall be the agreed upon contract rate. CARRIER agrees that BROKER has the exclusive right to handle all billing of freight charges to the Customer for the transportation services provided herein, and, as such, CARRIER agrees to refrain from all collection efforts against the shipper, receiver, consignor, consignee or the Customer. CARRIER further agrees that BROKER has the discretionary right to offset any payments owed to CARRIER hereunder for liability incurred by CARRIER pursuant to Section 8 of this Agreement.

11. **CONFIDENTIALITY AND NON-SOLICITATION.** Neither party may disclose the terms of this Agreement to a third party without the written consent of the other party except (1) as required by law or regulation; (2) disclosure is made to its parent, subsidiary or affiliate company; or (3) to facilitate rating or auditing of transportation charges by an authorized agent and such agent agrees to keep the terms of the Agreement confidential. CARRIER will not solicit traffic from any shipper, consignor, consignee or customer of BROKER where (1) the availability of such traffic first became known to CARRIER as a result of BROKER's efforts, or (2) the traffic of the shipper, consignor, consignee or Customer of BROKER was first tendered to CARRIER by BROKER. If CARRIER breaches this Agreement and directly or indirectly solicits traffic from customers of BROKER and obtains traffic from such customer during the term of this Agreement or for twelve (12) months thereafter, CARRIER shall be obligated to pay BROKER, for a period of fifteen (15) months thereafter, commission in the amount of thirty-five percent (35%) of the transportation revenue resulting from traffic transported for the Customer, and CARRIER shall provide BROKER with all documentation requested by BROKER to verify such transportation revenue.

12. **SUB-CONTRACT PROHIBITION.** CARRIER specifically agrees that all freight tendered to it by BROKER shall be transported on equipment operated only under the authority of CARRIER, and that CARRIER shall not in any manner sub-contract, broker, or in any other \_\_\_\_\_ initial here

form arrange for the freight to be transported by a third party without the prior written consent of BROKER.

13. **ASSIGNMENT/MODIFICATION/BENEFIT OF AGREEMENT.**

This Agreement may not be assigned or transferred in whole or in part, and supersedes all other agreements and all tariffs, rates, classifications and schedules published, filed or otherwise maintained by CARRIER. This Agreement shall be binding upon and ensure to the benefit of the parties hereto.

14. **SEVERABILITY.** In the event that the operation of any portion of this Agreement results in a violation of any law, the parties agree that such portion shall be severable and that the remaining provisions of this Agreement shall continue in full force and effect.

15. **WAIVER.** CARRIER and Shipper expressly waive any and all rights and remedies allowed under 49 U.S.C. § 14101 to the extent that such rights and remedies conflict with this Agreement. Failure of BROKER to insist upon CARRIER's performance under this Agreement or to exercise any right or privilege, shall not be a waiver of any BROKER's rights or privileges herein.

16. **DISPUTE RESOLUTION.** This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the State of Indiana and in the event of any disagreement or dispute, the laws of this state shall apply and suit must be brought in this state.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the date first above written.

**BROKER**

**CARRIER**

CD Logistics, LLC \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

FID No.: \_\_\_\_\_



# Commercial Driver Logistics

3841 S. LaFountain St, Kokomo IN 46902  
(765)455-3800 Fax (765)455-3966

## CARRIER PROFILE

Carrier Name \_\_\_\_\_

Contact Person \_\_\_\_\_

Mailing Address \_\_\_\_\_

Federal I.D. # \_\_\_\_\_ MC# \_\_\_\_\_

Phone Numbers (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ 1-800- \_\_\_\_\_ - \_\_\_\_\_

Fax Numbers (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ 1-800- \_\_\_\_\_ - \_\_\_\_\_

Emergency Number / After Hours Contact Information (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Traffic Lanes and/or States \_\_\_\_\_

### EQUIPMENT INFORMATION

Vans:

48 \_\_\_\_\_ 53 \_\_\_\_\_

Flats:

\_\_\_\_\_ 48 \_\_\_\_\_ 53 \_\_\_\_\_

Reefers:

48 \_\_\_\_\_ 53 \_\_\_\_\_

Tarps/Type: \_\_\_\_\_

Chains: \_\_\_\_\_ Straps: \_\_\_\_\_

Specialized Equipment (e.g. tankers):

Hazardous Materials \_\_\_\_\_ Yes \_\_\_\_\_ Haz-Mat Permit # \_\_\_\_\_

Liability Insurance Certificate \_\_\_\_\_ on file \_\_\_\_\_ \$1,000,000.00 minimum limit

Cargo Insurance \_\_\_\_\_ on file \_\_\_\_\_ limits \_\_\_\_\_ deductible

\_\_\_\_\_ Additional insured \_\_\_\_\_ Exclusions

Contract \_\_\_\_\_ Signed Agreement \_\_\_\_\_ Rate Confirmation Sheet Only

Released Limits of Liability \_\_\_\_\_ No \_\_\_\_\_ Yes \_\_\_\_\_ Amount

**ADDITIONAL COMMENTS** \_\_\_\_\_



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

1200 New Jersey Ave., S.E.  
Washington, DC 20590

**SERVICE DATE**  
March 24, 2008

**LICENSE**  
**MC-832749-B**  
**CD LOGISTICS, LLC**  
**KOKOMO, IN**

**This License is evidence of the applicant's authority to engage in operations, in interstate or foreign commerce, as a broker, arranging for transportation of freight (except household goods) by motor vehicle.**

**This authority will be effective as long as the broker maintains insurance coverage for the protection of the public (49 CFR 387) and the designation of agents upon whom process may be served (49 CFR 366). The applicant must also render reasonably continuous and adequate service to the public. Failure to maintain compliance will constitute sufficient grounds for revocation of this authority.**

Kathy Weiner, Chief  
Information Systems Division

# C.D. Logistics L.L.C.

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3841 S. LaFountain St. Kokomo, IN 46902  
(765)455-3800 Fax (765)455-3966

## Carrier References

1. Syndicate Sales, Inc./Hurryin Hoosier  
MC #165454  
2025 N. Wabash Ave, Kokomo, IN 46901  
Contact: Mike Williams  
(765)459-5628
2. Professional Eng & Mfg LLC  
MC #690107  
4587 S County Road 50 E  
Kokomo IN 46904  
Contact: Connie Summers  
(765)776-1793
3. Go To Logistics  
MC #563531  
1215 Dunamon Dr  
Bartlett IL 60103  
(630)483-7800

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B. M. C. 85  
FILER FMCSA  
ACCOUNT NO. 22512

Approved by OMB  
2126-0017  
License No.  
MC- 632749

PROPERTY BROKER'S TRUST FUND AGREEMENT UNDER 49 U.S.C. 13906  
OR NOTICE OF CANCELLATION OF THE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That we CD Logistics, LLC

(Broker)

of 3841 South Lafountain St Kokomo, IN 76902  
(Street) (City) (State) (Zip code)

as TRUSTOR (hereinafter called Trustor), and PACIFIC FINANCIAL ASSOCIATION, INC.,  
(Name of Trustee)

a financial institution created and existing under the laws of the State of California  
(State or District of Columbia)

as TRUSTEE (hereinafter called Trustee) hold and firmly bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Trustor is or intends to become a Broker pursuant to the provisions of the Title 49 U.S.C. 13904, and the rules and regulations of the Federal Motor Carrier Safety Administration relating to insurance or other security for the protection of motor carriers and shippers, and has elected to file with the Federal Motor Carrier Safety Administration such a Trust Fund Agreement as will ensure financial responsibility and the supplying of transportation subject to the ICC Termination Act of 1995 in accordance with contracts, agreements, or arrangements therefor, and

WHEREAS, this Trust Fund Agreement is written to assure compliance by the Trustor as a licensed Property Broker of Transportation by motor vehicle with 49 U. S. C 13906(b), and the rules and regulations of the Federal Motor Carrier Safety Administration, relating to insurance or other security for the protection of motor carriers or shippers, and shall inure to the benefit of any and all motor carriers or shippers to whom the Trustor may be legally liable for any of the damages herein described.

NOW, THEREFORE, the trustor and trustee, to accomplish the above, agree as follows:

1. Trustee agrees that payments made pursuant to the security provided herein to shippers and motor carriers pursuant to this Agreement will be made exclusively and directly to shippers or motor carriers that are parties to contracts, agreements or arrangements with Trustor.
2. Trustee agrees that the protection afforded to shippers and motor carriers hereby will continue until any and all claims made by shippers or motor carriers for which Trustor may be legally liable have been settled or until the funds deposited by Trustor pursuant to this Agreement have been exhausted, whichever comes first.
3. The parties hereto acknowledge and certify that said Trustee shall exclusively manage the security and trust fund, as herein set forth, and shall have legal title to the security and trust fund, pursuant to the terms and conditions as set forth in this agreement. Further, the parties hereto, and the said Trustee, as evidenced by their signatures to this agreement, acknowledge and certify that (a) said Trustee, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustor; and (b) said Trustor, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustee.
4. Trustee acknowledges the receipt of the sum of Ten Thousand Dollars (\$10,000.00), to be held in trust under the terms and conditions set forth herein.
5. Trustee may, within its sole discretion, invest the funds comprising the corpus of this trust fund consistent with its fiduciary obligation under applicable law.
6. Trustee shall pay, up to a limit of Ten Thousand Dollars (\$10,000.00), directly to a shipper or motor carrier any sum or sums which Trustee, in good faith, determines that the Trustor has failed to pay and would be held legally liable by reason of Trustor's failure to perform faithfully its contracts, agreements, or arrangements for transportation by authorized motor carriers, made by Trustor while this agreement is in effect, regardless of the financial responsibility or lack thereof, or the solvency or bankruptcy, of Trustor.
7. In the event that the trust fund is drawn upon and the corpus of the trust fund is a sum less than Ten Thousand Dollars (\$10,000.00), Trustor shall, within thirty (30) days, replenish the trust fund up to Ten Thousand Dollars (\$10,000.00) by paying to the Trustee a sum equal to the difference between the existing corpus of the trust fund and Ten Thousand Dollars (\$10,000.00).
8. Trustee shall immediately give written notice to the FMCSA of all lawsuits filed, judgments rendered, and payments made under this trust agreement and of any failure by Trustor to replenish the trust fund as required herein.
9. This agreement may be canceled at any time upon thirty (30) days written notice by the Trustee or Trustor to the FMCSA on the form printed at the bottom of this agreement. The thirty (30) day notice period shall commence upon actual receipt of a copy of the trust fund agreement with the completed notice of cancellation at the FMCSA's Washington, DC office. The Trustee and/or Trustor specifically agrees to file such written notice of cancellation.
10. All sums due the Trustee as a result, directly or indirectly, of the administration of the trust fund under this agreement shall be billed directly to Trustor and in no event shall said sums be paid from the corpus of the trust fund herein established.

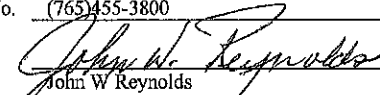
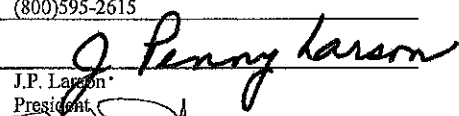
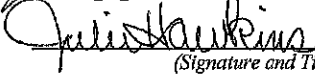

11. Trustee shall maintain a record of all financial transactions concerning the Fund, which will be available to Trustor upon request and reasonable notice and to the FMCSA upon request.

12. This agreement shall be governed by the laws in the State of Arizona, to the extent not inconsistent with the rules and regulations of the FMCSA.

This trust fund agreement is effective the 14 day of Sept, 2011, 12:01 a.m., standard time at the address of the Trustor as stated herein and shall continue in force until terminated as herein provided.

Trustee shall not be liable for payments of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements made by the Trustor for the supplying of transportation after the cancellation of this Agreement, as herein provided, but such cancellation shall not affect the liability of the Trustee for the payment of any such damages arising as the result of contracts, agreements, or arrangements made by the Trustor for the supplying of transportation prior to the date such cancellation becomes effective.

IN WITNESS WHEREOF, the said Trustor and Trustee have executed this instrument on the 23 day of Sept, 2011.

TRUSTOR		TRUSTEE	
Name	<u>CD Logistics, LLC</u>	Name	<u>PACIFIC FINANCIAL ASSOCIATION, INC.</u>
Address	<u>3841 South Lafountain St Kokomo, IN 76902</u>	Address	<u>12707 High Bluff #200 San Diego, CA. 92130</u>
Telephone No.	<u>(765)455-3800</u>	Telephone No.	<u>(800)595-2615</u>
By	<u> John W Reynolds Managing Member</u>	By	<u> J.P. Larson President</u>
Witness	<u> (Signature and Title)</u>	Witness	<u> (Signature and Title)</u>

Only financial institutions may qualify to act as Trustee. Trustee, by the above signature, certifies that it is a financial institution and has legal authority to assume the obligations of Trustee and the financial ability to discharge them

#### NOTICE OF CANCELLATION

THIS IS TO ADVISE THAT THE ABOVE BROKER TRUST FUND AGREEMENT EXECUTED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ IS HEREBY CANCELED AS SECURITY IN COMPLIANCE WITH THE FMCSA SECURITY REQUIREMENTS UNDER 49 U.S.C. 13906(b) and 49 CFR 387.307, EFFECTIVE AS OF THE \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE TRUSTOR, PROVIDED SUCH DATE IS NOT LESS THAN THIRTY (30) DAYS AFTER THE ACTUAL RECEIPT OF THIS NOTICE BY THE FMCSA.

\_\_\_\_\_  
DATE SIGNED

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED  
REPRESENTATIVE OF TRUSTEE OR TRUSTOR

**CD Logistics LLC**  
**3841 S Lafountain Street**  
**Kokomo IN 46902**

7/1/11

Dear Carrier:

Crestmark TPG LLC is the new accounts receivable factoring company for CD Logistics LLC.

Crestmark will be making the Carrier payments on behalf of CD Logistics. Our arrangement with Crestmark is to pay each Carrier within 21 days of receipt of the invoice, signed rate confirmation sheet and bill of lading. All paperwork can be faxed or emailed to us. A check by standard mail is how our Carriers will be paid at no charge to them. Standard ACH is available for a \$5 fee.

We offer a quick pay program upon receipt of the invoice, signed rate confirmation sheet and bill of lading. A fee of 3% of the invoice amount will be charged for this service. This is available by ACH within 24 hours of receipt of paperwork. Please do not hesitate to call us with any question you may have on our payment options.

Best regards,  
Julie Hawkins  
Accounts Department  
CD Logistics LLC  
Ph: 765-455-3800 Fax: 480-393-4194  
Email: [julie.hawkins@cdlogistics.com](mailto:julie.hawkins@cdlogistics.com)