

## CONTRACT CARRIER'S TRUCKING CONTRACT

**THIS** agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_ between Hamburg Süd North America, Inc., hereinafter designated as "Shipper", and \_\_\_\_\_, hereinafter designated as "Carrier", witnesseth:

**WHEREAS**, Carrier is engaged in the transportation of international ocean containers by motor vehicle as a contract Carrier and desires to transport goods for Shipper; and

**WHEREAS**, to facilitate such transportation and for the convenience in handling such transaction, the parties have agreed to the terms and conditions under which transportation shall be made, as hereinafter set forth.

**NOW THEREFORE**, in consideration of the premises and the mutual promises and conditions herein contained it is hereby agreed as follows:

(1) **GENERAL PROVISIONS:**

- (a) Carrier, in its operations hereunder, shall secure all permits, licenses and approvals necessary for the accomplishment of the work to be done hereunder and shall comply fully with all applicable laws, rules, orders and regulation of all governments and agencies thereof, whether federal, state or local, and shall furnish Shipper with satisfactory evidence thereof whenever requested to do so. Among other things, Carrier shall provide to Surface Transportation Board certificate showing Carrier holds contract authority from such commission covering the commodities and transportation routes to which this agreement relates, and Carrier shall give immediate notice to Shipper of any cancellation or modification of such authority. When transporting hazardous wastes, substances or materials pursuant to this agreement, Carrier shall comply with all applicable federal, state and local hazardous wastes, substances or materials laws and regulations and shall furnish Shipper with satisfactory evidence thereof whenever requested to do so.
- (b) **Carrier must maintain a U.S. Department of Transportation (DOT) Motor Carrier rating of satisfactory at all times during the contract period. Carrier must immediately inform Shipper if their DOT rating falls below satisfactory, at which time this contract becomes null and void and Carrier can longer provide service to the Shipper.**

- (c) The Shipper hereby agrees to deliver to the Carrier for transportation, not less than the following amount: one shipment of freight of all kinds (FAK) during a period of one (1) year.
- (d) The Carrier further agrees, subject to availability and loading tendered for transportation by Shipper, all such cargo shall be transported hereunder in accordance with this agreement and the provisions of Shipper's tariff's or service contracts applicable to such cargo. Cargo shall include any containers in which goods are packed when received by Carrier hereunder.
- (e) This agreement shall not be modified or altered unless in writing, signed by both parties to this agreement.
- (f) This contract shall terminate all previous contracts between the parties hereto relating to the transportation Freight all kinds (FAK) and shall remain in full force and effect for one (1) year from date hereof and from year to year thereafter, subject to the right of termination by either party at any time on thirty (30) days notice in writing to the other party, and, in the event of such termination at any time other than the end of (1) or more years from date hereof, the minimum provided in paragraph 1 (b) shall be reduced by the proportion the unexpired portion of the years bears to one (1) year.
- (g) It is to be clearly understood and it is the intention of the parties hereto that Carrier shall employ all persons operating trucks hereunder, that such persons shall be and remain the employees of the Carrier, that the Carrier shall be an independent contractor of the Shipper and that nothing herein contained shall be construed to be inconsistent with that relation or status.
- (h) It is further to be clearly understood that where the Carrier engages any subcontractor for any portion of the work hereunder, such engagement will not alter the relationship of the Carrier to the Shipper as an independent contractor and shall not establish any relationship or obligation between Shipper and any subcontractor. Carrier will continue to be solely responsible for compliance with or performance for any subcontractors actually doing such work and will otherwise defend, indemnify and save harmless the Shipper, its agents and servants from any such claims, liabilities, penalties and fines (whether criminal or civil), judgements outlays and expenses (including attorney's fees).
- (i) Carrier shall defend, indemnify and save harmless the Shipper, its agents and servants from any and all liabilities, penalties and fines (whether criminal or civil), judgements, outlays and expenses

(including attorney's fees) resulting from Carrier's failure or the failure of Carrier's agents, employees, subcontractors or representatives to comply with any applicable laws and regulations, whether federal, state or local, or property arising out of the performance of this agreement caused by the acts, failure to act or negligence of Carrier, subcontractors, its agent, employees, or representatives.

- (j) Carrier will assume all liability for and will otherwise defend, indemnify and save harmless the Shipper, its agents or servants from any and all liabilities, penalties and fines (whether criminal or civil). Judgements, outlays and expenses (including attorney's fees) resulting from any release or discharge of hazardous wastes, substances or materials that occurs during transportation and Carrier will assume all responsibility and liability for cleanup of any release or discharge of hazardous wastes, substances or materials that occurs during transportation and will otherwise defend indemnify and save harmless the Shipper, its agents and servants from any and all liabilities, penalties and fines (whether criminal or civil), judgements, outlays and expenses (including attorney fees) resulting from the cleanup of any such release or discharge.
- (k) Carrier will defend, indemnify and save harmless the Shipper, its agents and servants from any and all liabilities, penalties and fines (whether criminal or civil in nature), judgements, outlays and expenses (including attorney's fees) resulting from the Carrier's failure or the failure of Carrier's agents, employees, subcontractors or representatives to perform any of the terms, conditions, promises or covenants contained in this contract.
- (l) Carrier shall have full responsibility for all payments, benefits, and rights of whatsoever nature to or on behalf of any of its employees and to ensure that its subcontractor shall have the same responsibility.
- (m) It is further agreed by the parties hereto that Carrier is not to display the name of Shipper upon or about any of the Carrier's vehicles, without Shipper's written consent.
- (n) Any limitation on or exemption from liability in any tariff, receipt, bill of lading, or other document issued by or on behalf of Carrier shall have no legal effect and shall not otherwise apply with respect to shipments tendered by or on behalf of Shipper unless specifically agreed in writing by the Shipper. Any limitations on or exemptions from liability contained in a Carrier tariff, receipt, bill of lading, or other document issued in conjunction with a specific shipment

moving under this Contract shall have no legal effect and shall not otherwise be applicable to such shipments.

**2. RECEIPTS OF GOODS:**

- (a) Carrier agrees, upon receipt from Shipper of such quantities of Shipper's goods as may be tendered from time to time under this agreement by Shipper or by a third party on behalf of Shipper to give Shipper a written receipt thereof, which shall be prima facie evidence of receipt of such goods in good order and condition unless otherwise noted upon the face of such receipt; and, in the case of transportation of hazardous wastes, substances or materials such written receipt shall be prima facie evidence of receipt of such wastes, substances or materials in a condition and manner which complies with all applicable laws and regulations, whether federal, state or local. In the event that Motor Carrier elects to use a tariff, bill of lading, manifest or other form of freight receipt or contract, any terms, conditions and provisions of such bill of lading, manifest or other form shall be subject and subordinate to the terms, conditions and provisions of this Agreement, and in the event of a conflict between the terms, conditions and provisions of such tariff, bill of lading, manifest or other form and this Agreement, the terms, conditions and provisions of this Agreement shall govern.
  
- (b) Carrier agrees to take signed receipts upon forms satisfactory to Shipper from all persons to whom deliveries shall be made, which receipts shall be retained by Carrier for at least two (2) years and shall be available for inspection and use of Shipper.

**3. CARE AND CUSTODY OF MERCHANDISE:**

- (a) Carrier hereby assume the liability of an insurer of the prompt and safe transportation of all goods entrusted to its care, and shall be responsible to Shipper for all loss or damage of whatever kind and nature and howsoever, caused to any and all goods entrusted to Carrier hereunder occurring, while same remains in the care, custody or control of Carrier or to any other persons to whom the Carrier may have entrusted said goods and before said goods are delivered as herein provided or returned to Shipper.
- (b) On occasion, Carrier will be requested to transport reefer cargo in Hamburg Sud refrigerated containers. On all occasions,

refrigerated containers must be transported with an attached generator set (nose mounted or under-slung) unless specifically advised by Shipper in writing that a generator set is not required. It is the Carrier's responsibility to ensure a generator set is attached and running properly at the assigned temperature **as shown on Hamburg Sud's Purchase Order at** the time of interchange.

**4. INSURANCE:**

- (a) Carrier agrees to be a motor Carrier member in good standing in the Uniform Intermodal Interchange Agreement (UIIA). Carrier further agrees to comply with the insurance requirements of the Surface Transportation Board and the states through which the Carrier operates. Carrier's insurance coverage shall, at a minimum, comply with the minimum requirements of Hamburg Süd, North America, Inc. as stated in **its UIIA addendum page.**
- (b) **Carrier agrees to possess a minimum of U.S. \$100,000 cargo insurance during the contract period.**
- (c) The Carrier agrees to carry cargo, personal injury, death, equipment and general insurance and will promptly reimburse Shipper for the value of any goods (including containers) lost or destroyed during the period of Carrier's responsibility under clause (3) (a). All such insurance shall name Hamburg Süd, North America, Inc. as additional insured.
- (d) The Carrier agrees to provide the UIIA with appropriate certification and a copy of each policy of insurance and renewals thereof or other satisfactory evidence that Carrier has obtained insurance in compliance with the requirements and terms of this agreement.
- (e) The Carrier will arrange with its broker and/or insurance Carrier(s) that notice of coverage and limits will be sent directly to the UIIA, as well and cancellation notices and amendments to coverage(s).
- (f) **Carrier's insurance shall have no exceptions for particular commodities.**
- (g) Self-insurance is not permitted when working for Shipper under this contract.

**5. ASSIGNMENTS:**

This contract cannot be assigned by Carrier without the written consent of Shipper.

**6. COMPENSATION, COMMODITIES, TERRITORY:**

- (a) Acceptable rates and charges, rules and regulations, the commodities to be transported, and the points from and to which they shall be transported, are to be furnished the Shipper, the Surface Transportation Board and other regulatory bodies as may be required, as set forth in the rate schedule attached hereto and made a part hereof. Shipper agrees to pay Carrier as full compensation for services to be performed by Carrier under said rules and regulations the rates and charges set forth in the rate schedule, within sixty (60) days of invoice date.
- (b) This agreement is to become effective upon signature by Shipper and Carrier.

**7. EQUIPMENT INTERCHANGE AGREEMENT:**

The parties hereby incorporate by reference the Uniform Intermodal Interchange Agreement (UIIA) between them, with the following understanding and agreement.

- (a) Use charges (as defined in the UIIA Hamburg Süd, North America addendum) shall apply during the period covered by this contract; and
- (b) In any other respect relating to any equipment furnished by the Carrier, provisions of such equipment interchange agreement shall take precedence over the remaining provisions of this contract.

**8. CONFIDENTIALITY:**

Carrier shall treat as confidential, and not to disclose to third parties, the terms of this agreement or any information concerning the Shipper's business including information regarding suppliers, products and customers without in each instance obtaining Shipper's written consent in advance.

**9. NOTICES:**

All notices given pursuant to this agreement shall be given in writing by certified or registered mail, return receipt requested, and addressed as directed by the parties from time to time.

**SHIPPER:** Hamburg Süd North America, Inc.  
465 South Street  
Morristown, NJ 07960  
P. Vikan – Intermodal Manager

**CARRIER: Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Name:** \_\_\_\_\_

**10. APPLICABLE LAW:**

To the extent state law applies, this agreement shall be governed by and interpreted in accordance with the laws of the state of New York.

**SHIPPER**

**CARRIER**

For: Hamburg Sud North  
America, Inc.  
Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
  
Witness: \_\_\_\_\_  
Signature: \_\_\_\_\_  
  
Date: \_\_\_\_\_

For: \_\_\_\_\_  
Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
  
Witness: \_\_\_\_\_  
Signature: \_\_\_\_\_  
  
Date: \_\_\_\_\_



## **Addendum #1**

### **SERVICE EXPECTATIONS**

#### **1. APPOINTMENT DATES and TIMES**

All pick up and delivery appointment dates and times are to be strictly adhered to and any deviations are to be immediately reported by the Carrier to the Shipper. On the occasion that Carrier sets the appointment date and time with loading or unloading facility, Carrier must advise Shipper of the date(s) and time(s) by close of business that same day.

If the Shipper is not immediately notified, the value (rate charged) of the work to be performed as indicated on Hamburg Süd's purchase order will be reduced by 5%. All appointment dates or times missed by the Carrier will result in a 5% reduction in the value (rate charged) of the work to be performed as indicated on Hamburg Süd's purchase order.

Note: The 5% freight charge penalty will not apply if the missed appointment is the result of delays caused by any of the Shipper's third party vendors, e.g., railroads or container yards, as long as the Shipper is properly notified as in paragraph 1 above. If an export container misses its intended loading vessel due to the fault of the Carrier, the Carrier shall move the container to the next port of loading at its own expense.

#### **2. PURCHASE ORDERS and SHIPPER'S WAYBILLS**

The Carrier's driver is responsible to check all paperwork provided by the loading facility to make sure it matches the information shown on the Hamburg Sud Purchase Order. Container number, purchase order number, commodity, loading vessels and voyage must all agree between the Hamburg Sud purchase order and the Shipper's waybill before the driver can depart the facility with the load.

If the information does not match, and the load must be recalled by the Shipper because of an error in loading, then it will be the responsibility of the Carrier to return the load to the Shipper's facility at Carrier's expense.

#### **3. PROOF of DELIVERY**

Carrier's driver must obtain a signed "Proof of Delivery" for each container delivered to a consignee. Hamburg Sud will request Carrier provide copies of proofs of deliveries from time to time as dictated by client requirements. The Carrier must send a faxed copy of the proof of delivery to Hamburg Sud within 24 hours of the request.



**4. INVOICING**

All invoices shall be accompanied by a Hamburg Süd purchase order. The amount on the invoice should exactly match the corresponding amount on the purchase order. Invoices must reference the booking or bill of lading number as shown on the Hamburg Sud purchase order as well as the container number(s). The invoice shall be sent to the remittance address on the purchase order no later than 10 working days after the date of the pick up or delivery.

If there are any additional expenses incurred during the course of a particular pick up or delivery, the Carrier must immediately contact the Shipper and provide full details. If these additional costs are approved, Shipper will send another purchase order reflecting the additional charges. Documentation supporting any additional expenses must be submitted to Hamburg Sud no later than 24 hours after the pick up or delivery date and time.

If the Carrier fails to contact the Shipper regarding additional charges while at the driver is still at the loading or discharge location, the Shipper will decline to reimburse the Carrier for those additional costs.

Shipper will require back up documentation for any of these additional costs and Carrier must supply same to Shipper by fax no later than 24 hours after the occurrence.

**5. ISO 9001 QUALITY PROCEDURES**

Service Review meetings between Shipper and Carrier will be conducted on a quarterly basis using ISO 9001 Quality Procedures as set out in the Hamburg Süd manual.

Serious service failures of any kind will be documented through a Hamburg Süd “Non Conformance Report”

Continuous service failures can result in the termination of this agreement by the Shipper.

**SHIPPER**

**CARRIER**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

**Addendum #2**

**CHARGES IN ADDITION TO THOSE ON THE ATTACHED RATE SHEETS IN  
Addendum #3**

**1. FUEL SURCHARGE**

Any fuel surcharge percentage, and its implementation date, must be agreed upon by both parties and will only be computed based upon the Line Haul prices in the attached rate sheet.

**2. “DROP & PICKS”**

All drop and picks will be advised to the Carrier at the time of the initial purchase order. Adequate compensation, if warranted, will be added to the normal price as shown in the attached rate sheet(s). At no time shall the Carrier drop a container at a client’s facility without first advising and getting permission from Shipper.

**3. “STREET TURNS”**

**All Street Turns (Imports delivered, exports loaded in the same container without an intermediate interchange at Shipper’s container yard) accomplished by the Carrier are to be advised to the Shipper immediately upon loading of the export.**

**4. MISCELLANEOUS CHARGES**

Any and all other miscellaneous charges must be advised in writing to Hamburg Süd at the immediate time of occurrence, and must be backed up with proper documentation in order to be reimbursed.

**SHIPPER**

**CARRIER**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_



**Addendum #3**

**ATTACHED RATE SHEETS**

The rate sheet(s) attached are agreed to by both parties to the agreement and are fully incorporated into this agreement.

**SHIPPER**

**CARRIER**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_