

TRUCKING SERVICES AGREEMENT

This Trucking Services Agreement is entered into this ____ day of 20__ by and between Liberty Lift Solutions, LLC ("Company") and _____ ("Contractor"). Company and Contractor are referred to herein individually as a "Party" and collectively as the "Parties".

1. APPLICATION OF THE TRUCKING SERVICE AGREEMENT. This Agreement controls and governs all Work requested to be performed under any Purchase Order between Company and Contractor that includes Trucking Services (as herein defined). This Agreement does not obligate Company to order any Work from Contractor and does not obligate Contractor to accept any orders from Company. The terms and conditions of this Agreement represent the entire agreement between the Parties and supersede all prior or subsequent oral or written agreements or understandings with respect to any Work covered hereby.

2. DEFINITIONS. Capitalized words used herein have the following meanings:

"Agreement" means this Trucking Services Agreement and any Purchase Orders between the Parties.

"Affiliate" or "Affiliates" means with respect to any legal entity, any other legal entity that owns or controls the first entity, is owned or controlled by the first entity or is under common ownership or control with the first entity. For the purpose of this definition, "control" of a legal entity means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of such legal entity, whether through the ownership of voting securities, by agreement or otherwise.

"Cargo" means property belonging to, or intended to be delivered to, Company Group or Client Group which Company has hired Contractor to transport. Cargo shall be listed as part of the Purchase Order.

"Claim(s)" means any claim of every kind and nature, demand, cause of action (whether in law or equity), proceedings (whether civil, criminal, administrative, or investigative), judgment, award, costs, expenses (including without limitation reasonable attorneys' fees and costs of litigation), liability, loss, expense, penalty, fine and damages.

"Client" means any customer to which Company has undertaken to provide goods or services which include or relate to the Work to be provided by Contractor.

"Client Group" means and includes Client, its parent companies, Affiliates, subsidiaries, successors, joint-ventures, co-owners, co-lessees, and assigns, and each of its and their shareholders, officers, members, directors, partners, employees, and agents.

"Company" shall mean Liberty Lift Solutions, LLC (and any of its Affiliates).

"Company Group" means Company and its Affiliates and its and their contractors of any tier and their respective Affiliates, and its and their respective officers, members, directors, employees, and invitees (including agency personnel), but shall not include any member of Contractor Group.

"Contractor" collectively refers to the Contractor named in the first paragraph of this Agreement and any contractor or vendor designated in the Purchase Order as providing Work.

"Contractor Group" means Contractor, and its Affiliates and its and their Subcontractors and their respective Affiliates, and its and their respective officers, members, directors, employees, and invitees but shall not include any member of Company Group or Client Group.

"Equipment" means all rented, leased, or owned equipment, trucks, vehicles, trailers, machinery, tools, supplies, parts, and other items furnished, utilized, or consumed by Contractor in the performance of Work pursuant to a Purchase Order, but shall not include Cargo.

"Purchase Order" means each individual order for Work issued or requested by Company (whether formally labeled as a "purchase order" or not). All Work to be provided under the Purchase Order, including non-Trucking Services, shall be subject to the terms of this Agreement if any portion of the Work described in the Purchase Order includes Trucking Services. The Purchase Order shall incorporate any shipping instructions and description of the Cargo provided in any Bill of Lading (or other confirmation the Parties may sign), but shall not incorporate any other terms in those documents.

"Regardless of Fault" shall mean without regard to the cause(s) thereof including, without limitation, preexisting conditions, imperfection of material, defect or failure of equipment, ultra-hazardous activity, strict liability, breach of statutory duty, breach of safety requirement or the negligence of any party or parties (including the negligence of the indemnified Party or Parties), WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, CONTRIBUTORY, OR CONCURRENT, ACTIVE OR PASSIVE, BUT EXPRESSLY NOT INCLUDING GROSS NEGLIGENCE OR

WILLFUL MISCONDUCT.

“Trucking Services” shall include all services related to the shipment, trucking, transportation, and/or movement of Cargo (including unloading or loading).

“Subcontractor” means any contractor, supplier, manufacturer or any other Person who is engaged by Contractor in connection with the Work.

“Third Party” or “Third Parties” means any person or entity other than Client Group, Company Group or Contractor Group.

“Work” shall mean all operations to be performed by Contractor, its personnel, Subcontractors, or agents pursuant to a Purchase Order, regardless of whether or not such services are considered Trucking Services.

3. TERMS OF PAYMENT. Company agrees to pay Contractor for satisfactory Work performed according to the schedule provided in the Purchase Order. If no schedule is provided, Company shall make payments on or before the date that is forty-five (45) days from the receipt of Contractor’s fully supported invoice. If Company disputes, or intends to withhold payment on, any item billed, Company shall, within forty-five (45) days of receipt of Contractor's invoice, notify Contractor of the item disputed and specify Company's complaint. Payment of such item(s) may be withheld until settlement of the dispute; however, any undisputed portion shall be paid within the time period specified.

4. MANNER OF PERFORMANCE:

4.1 Contractor shall perform Work in accordance with the manner required by the applicable Purchase Order and according to the instructions of Company. Contractor warrants that it has adequate Equipment in good working order to perform the Work and fully trained personnel capable of efficiently and safely operating such Equipment. Contractor shall perform Work safely and with due diligence, in a good and workmanlike manner, using qualified, experienced, and competent workers. Contractor shall only permit its personnel, Subcontractors and/or agents to operate Equipment for which they are trained and qualified to operate.

4.2 In no event shall Contractor delegate or assign any of its obligations hereunder to, or have any portion of the Work performed by, a third party (including Subcontractors), without first receiving the express written approval of Company. Contractor shall not allow Subcontractors, or any third parties to operate or ride along in any Equipment while performing Work without first receiving the express written approval of Company.

4.3 Contractor shall closely and diligently inspect all Equipment and Cargo for any faults, damages, and dangers, and any such deficiencies shall be immediately reported in writing to Company. Contractor shall be responsible for ensuring that its Equipment is in good working order before commencing Work. Contractor is solely responsible for maintenance, repairs, upkeep, fuel, and other actions necessary to keep the Equipment in good working order throughout the duration of the Work.

4.4 Contractor shall obtain and keep in force all permits, licenses, and other governmental authorizations from the appropriate authorities that are required for Contractor’s performance of Work. Contractor warrants it shall fully comply with all applicable laws which are now or hereafter become applicable to rendition of the Work, including but not limited to state and federal motor carrier statutes and regulations, OSHA regulations and similar state regulations regarding workplace safety, immigration laws (including verifying eligibility to work) and environmental laws. **CONTRACTOR SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS RELATED TO, RESULTING FROM OR IN CONNECTION WITH CONTRACTOR GROUP’S FAILURE TO COMPLY WITH APPLICABLE LAWS.**

4.5 Contractor shall comply with any and all HSE policies, rules and procedures (including, but not limited to, instruction or training programs, procedures for rendering first aid, safe work practices, and operating procedures) (collectively, “HSE Policies & Procedures”) provided by Company. Further, while Contractor is on the site of a Client, Contractor shall comply with any and all of Client’s HSE Policies & Procedures.

5. INDEPENDENT CONTRACTOR. Contractor and its Subcontractors will act as independent contractors in the providing of Work to Company and Client. Contractor and its Subcontractors are independent contractors with full responsibility for exclusive direction and control over its agents, employees, and subcontractors and shall control the means and methods of performing the Work. No employee of Contractor or its Subcontractors shall be deemed for any purpose to be the employee, servant, agent, or representative of the Company in the performance of the Work. Contractor and its Subcontractors shall not be entitled to any benefits afforded to employees of Company or Client. Contractor and its Subcontractors shall be responsible for payment of all compensation benefits for their respective employees, including without limitation, payments for unemployment insurance and worker's compensation, and shall be responsible for all state and federal taxes, including but not limited to income taxes, payroll taxes, FICA, and taxes on self-employment income.

CONTRACTOR EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY

GROUP AND CLIENT GROUP FROM AND AGAINST ANY CLAIMS BROUGHT BY OR IN FAVOR OF ANY MEMBER OF CONTRACTOR GROUP ALLEGING AN ENTITLEMENT TO ANY PAY OR BENEFITS BASED ON ALLEGED EMPLOYEE RELATIONSHIP, INCLUDING ANY CLAIMS ALLEGING VIOLATIONS OF THE FAIR LABOR STANDARDS ACT.

6. INDEMNIFICATION. In the event one party must bring legal action in order to enforce an indemnification, all reasonable legal costs shall be included as part of the indemnification. **COMPANY AND CONTRACTOR EXPRESSLY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE INDEMNITIES AND DISCLAIMERS OF WARRANTIES CONTAINED HEREIN ARE “CONSPICUOUS.”**

6.1 CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS OF EVERY TYPE AND CHARACTER, ARISING OUT OF OR RESULTING FROM OR RELATED, DIRECTLY OR INDIRECTLY, TO INJURY TO, ILLNESS, OR DEATH OF ANY MEMBER OF CONTRACTOR GROUP INCIDENT TO, CONNECTED WITH, OR ARISING OUT OF THE PERFORMANCE OF THE WORK REGARDLESS OF FAULT INCLUDING, BUT NOT LIMITED TO THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF EITHER COMPANY GROUP OR CLIENT GROUP.

6.2 CONTRACTOR’S INDEMNITY FOR EQUIPMENT. CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS OF EVERY TYPE AND CHARACTER, ARISING OUT OF OR RESULTING FROM OR RELATED, DIRECTLY OR INDIRECTLY, TO DAMAGE TO CONTRACTOR’S EQUIPMENT INCIDENT TO, CONNECTED WITH, OR ARISING OUT OF THE PERFORMANCE OF THE WORK REGARDLESS OF FAULT INCLUDING, BUT NOT LIMITED TO THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF EITHER COMPANY GROUP OR CLIENT GROUP.

6.3 CONTRACTOR’S INDEMNITY FOR OTHER PROPERTY. SUBJECT TO SECTION 7, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS OF EVERY TYPE AND CHARACTER, ARISING OUT OF OR RESULTING FROM OR RELATED, DIRECTLY OR INDIRECTLY, TO DAMAGE TO ANY OF COMPANY GROUP’S PROPERTY (INCLUDING CARGO LOSS) OR CLIENT GROUP’S PROPERTY INCIDENT TO, CONNECTED WITH, OR ARISING OUT OF THE PERFORMANCE OF THE WORK REGARDLESS OF FAULT INCLUDING, BUT NOT LIMITED TO THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF EITHER COMPANY GROUP OR CLIENT GROUP.

6.4 THIRD PARTY CLAIMS. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS CONTRACTOR GROUP AND CLIENT GROUP FROM ANY AND AGAINST ALL CLAIMS OF EVERY TYPE AND CHARACTER, WHICH ARE ASSERTED BY THIRD PARTIES FOR BODILY INJURY, DEATH, OR LOSS OR DESTRUCTION OF PROPERTY, OR LOSS IN INTERESTS IN PROPERTY TO THE EXTENT THE CLAIM ARISES FROM A BREACH BY CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CONTRACTOR.

6.5 ROAD HAZARDS. CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS CONTRACTOR GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS OF EVERY TYPE AND CHARACTER RELATING TO ROAD HAZARDS CREATED BY TRANSPORTATION OF CARGO (INCLUDING BUT NOT LIMITED TO ROCKS AND/OR DEBRIS FALLING OUT OF TRUCKS) CONNECTED WITH OR ARISING OUT OF THE PERFORMANCE OF THE WORK.

6.6 POLLUTION. CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS ARISING OUT OF POLLUTION OR CONTAMINATION (INCLUDING NATURALLY OCCURRING RADIOACTIVE MATERIAL) EMANATING FROM CONTRACTOR GROUP’S EQUIPMENT OR INCIDENT TO CONTRACTOR GROUP’S OPERATION OF ITS EQUIPMENT, INCLUDING CLEANUP, DEBRIS REMOVAL AND PROPERTY RESTORATION AND REMEDIATION.

6.7 CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY GROUP AND CLIENT GROUP FROM AND AGAINST ALL CLAIMS ARISING FROM THE PRESENCE OF ANY HAZARDOUS/TOXIC WASTE OR SUBSTANCES, KNOWN OR UNKNOWN, BROUGHT TO THE WORKSITE BY CONTRACTOR GROUP.

6.8 SAVINGS CLAUSE.

A. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or

enforceability of the indemnification obligations in this Paragraph 6, such legal limitations are made a part of the indemnification obligations and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect. The Parties agree that any anti-indemnity statute which makes the indemnity agreements provided herein unenforceable against the other Party personally shall not have any effect or limit the insurance obligations under this Agreement.

- B. If the Work is subject to Tex. Trans. Code 623.0155 (or similar laws of another state to the extent applicable), both Parties agree that: to the extent any member of Contractor Group is acting as a Motor Carrier (as defined by the applicable anti-indemnity statute), such Motor Carrier's indemnity, release and hold harmless obligations shall be limited exclusively to the foregoing (but only to the extent exclusion of the other indemnities is required by law): Motor Carrier shall release Company of any liability for, and shall protect, defend, indemnify, and save Company Group and Client Group harmless from and against all Claims for bodily injury, illness, or death, or loss of or damage to property, of any person to the extent that any such Claim arises out of the performance of this Agreement and is attributable to the breach of warranty or HSE Policies & Procedures, negligence, willful misconduct, or other fault of such Motor Carrier, and in no event will such Motor Carrier be required to indemnify Company for claims arising out of Company's own negligence or fault.

7. **INSURANCE.** Contractor shall provide Company with Certificate(s) of Insurance evidencing that insurance coverage of the types, amounts and conditions as specified in Exhibit A are in effect. The policies for such insurance shall provide that Company receive 30 days' notice of any termination, cancellation or alteration of the material terms of such insurance.

8. **DELIVERY & RISK OF LOSS.** Terms regarding the point of delivery and risk of loss to the Cargo shall be provided by a written Purchase Order. To the extent not provided therein, Contractor shall bear all risk of loss for Cargo at all times Cargo is in Contractor Group's possession, custody, or control. Unless otherwise agreed in writing, delivery time is of the essence and Contractor is obligated to use all reasonable diligence in bringing the Cargo to its destination and/or otherwise completing the Work. Any claims for excusable delay caused by force majeure must be reported to Company within forty-eight (48) hours of Contractor discovering such delay or such will not excuse timely performance.

9. **DELAYS.** If a specific shipping date is either not given or is estimated only, and is not promised on the face of the Purchase Order or in a separate writing signed by Company, Company will not be responsible for delays in filling this order nor liable for any loss or damages resulting from such delays. If a specific shipping date is promised, Company will not be liable for delays resulting from causes beyond Company's control. Contractor's sole and exclusive remedy for delay shall be an extension of time in which to complete the Work.

10. **LIMITATION OF DAMAGES.** EXCEPT TO THE EXTENT NECESSARY TO FULFILL THE INDEMNIFICATION OBLIGATIONS OF THIS AGREEMENT, NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, DAMAGE FOR LOSS OF USE, LOSS OF REVENUE, AND LOSS OF PROFITS REGARDLESS OF FAULT AND EACH PARTY HEREBY RELEASES THE OTHER (AND THEIR "GROUP") IN THIS REGARD.

11. **CHOICE OF LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND SHALL BE PERFORMABLE IN HARRIS COUNTY, TEXAS. EACH PARTY HERETO SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF TEXAS IN HARRIS COUNTY, TEXAS AND THE FEDERAL COURTS IN AND FOR THE SOUTHERN DISTRICT OF TEXAS SITTING IN HOUSTON, TEXAS IN CONNECTION WITH ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY DOCUMENT OR INSTRUMENT ENTERED INTO IN CONNECTION HERewith.

Signature page follows.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

COMPANY:

LIBERTY LIFT SOLUTIONS, LLC

By: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR:

Print full legal name of Contractor above this line.

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"

Insurance Classification and Minimum Required Limits

Contractor shall procure at its sole expense for the duration of this Agreement the insurance policies and amounts outlined below with reliable insurers that are reasonably satisfactory to Company and authorized to conduct business in the locales where the Work is performed. Contractor agrees to have its insurance agent furnish Company with a certificate or certificates of insurance evidencing its coverage in accordance with the requirements set forth below. To the extent of the liability and indemnity obligations assumed by Contractor, Contractor shall cause its insurance company or companies to cover Company Group as an additional insured on said policies, be primary and non-contributory to Company's policies, and provided a written waiver of subrogation in favor of Company Group. All reference to protection, privileges, or indemnification assumed by Contractor shall extend to and include Company Group. Reasonable deductibles are acceptable and shall be for the account of Contractor. Contractor will notify its underwriters and Company as soon as administratively possible; however, not later than forty-eight (48) hours following any incident or occurrence which may give rise to any claim against the Parties hereto. It shall remain the primary responsibility of Contractor to notify Company within 30 days of any cancellation in any of the required policies under this Agreement and no insurance shall be cancelled without prior written notice to Company.

The following insurance coverages shall be for the account of Contractor under this Agreement:

- A. **Comprehensive (or Commercial) General Liability Insurance** on an "Occurrence" form, including coverage for contractual liability, public liability, bodily injury, personal injury, advertising injury, property damage premises coverage, pollution coverage on a sudden and accidental/occurrence or time element basis, products and completed operations, "Action Over" claims and all other contractual obligations assumed in this Agreement. The minimum limit shall be **One-Million Dollars (\$1,000,000)** per occurrence and **Two-Million Dollars (\$2,000,000)** aggregate for Bodily Injury, Personal Injury and Property Damage. Contractor will carry Excess Liability (or Umbrella) coverage as listed below that will "follow form" over each claim if such limit becomes exhausted.
- B. **Commercial Automobile Liability Insurance** for bodily/personal injury and property damage, including but not limited to coverage for all owned, non-owned and hired automotive vehicles or automotive equipment with minimum limits of **One-Million Dollars (\$1,000,000)** combined single limit per accident or occurrence for Bodily Injury and Property Damage. Commercial auto coverage shall include all endorsements required by applicable federal state motor carrier regulations, including but not limited an MCS-90 or Form F-1.
- C. **Excess (or Umbrella) Liability Insurance** coverage of at least **Five-Million Dollars (\$5,000,000)** in excess of the foregoing primary liability policy limits shall be carried by Contractor and which "follows form" or "drops down" over the underlying insurance coverages. All of the foregoing policies containing an element of liability coverage shall be included within the Schedule of Underlying Coverages of the Excess (Umbrella) Liability policy. The limits shall be reported on the required Certificate of Insurance.
- D. **If applicable** and wherever necessary for proper coverage, **All Risk Cargo Insurance** with minimum limits of **One-Million US Dollars (\$1,000,000)** per occurrence which insures Subcontractor liability for loss of or damage to goods transported, including coverage for theft, fire and acts of God.
- E. **If applicable** and wherever necessary for proper coverage, **Workers' Compensation Insurance** in statutory required amounts and Employer's Liability Insurance, covering risks which may be outside of the scope of the State's worker's compensation statute with a minimum limit of **One-Million Dollars (\$1,000,000)** per occurrence.
- F. In the event that Contractor enters into a contractual agreement with other persons or companies (i.e., Subcontractors) Contractor shall require all of its Subcontractors to provide the foregoing insurance coverages, as well as any other coverage that it considers necessary. Such Subcontractor policies shall include the same Additional Insured Provisions and Waiver of Subrogation Clauses as required herein. Regardless of whether any Subcontractor fails to provide the minimal insurance, Additional Insured Provisions and Waiver of Subrogation Clause as required herein, Contractor shall remain obligated to Company for any such deficiencies and the Subcontractor shall be deemed the direct employee of Contractor. Contractor agrees to defend, indemnify and save Company Group harmless from all losses to which said coverages would have applied.
- G. Contractor does hereby protect, defend, indemnify and hold harmless Company Group from any Claims suffered

due to Contractor's failure to comply with any of the above insurance requirements and/or any applicable law, including the additional insured requirements and obtaining of waivers of subrogation, or due to any insurance coverage being invalidated due to Contractor's failure to comply with the terms, conditions, and warranties of the insurance.

H. Other Insurance: Such other insurance in the types and amounts as Company deems necessary or as is required by applicable law. The above-stated minimum requirements are not intended to indicate the amounts and types of insurance that Contractor needs or may ultimately need.