

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, an New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Surface Transportation Board of the U.S. Department of Transportation (the "STB"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes pursuant to the requirements of the STB set forth at 49 C.F.R. Part 1057 (the "STB Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the STB Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** In accordance with the STB Leasing Regulations, Carrier will be considered as the "owner" of the Equipment for the purpose of subcontracting or trip leasing the Equipment to other authorized carriers, such subcontracting or trip leasing is to take place only with Carrier's express authorization and subject to applicable laws and regulations.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the U.S. Department of Transportation ("DOT"); (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

**ARTICLE III: FREIGHT**

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures. Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

**ARTICLE IV: TRAILERS**

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier for the entire amount of all loss or damage to Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents.

**ARTICLE V: COMPENSATION**

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within sixty (60) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights provided in Sections 5.05 and 10.04 hereof to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 4.04, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04 and 12.01; or in the Schedule of Compensation, or the optional insurance program.
- b) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- c) Advances and other extensions of credit by Carrier to Contractor.
- d) Any amounts required from time to time to maintain Contractor's Escrow Account at the prescribed level as provided in Section 10.01 hereof.
- e) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the Surface Transportation regulation, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

**ARTICLE VI: LICENSES AND PERMITS**

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses and Permits.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier will maintain at Carrier's expense the continued cost of all identification, permits and decals. Carrier will at Carrier's expense during the entire term of the agreement, pay for the base plate license required for the operation of the equipment after 12 months continued service. First year base plate deductions will be 52 deductions of \$28.00.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination. In the event of termination of the agreement during the first twelve (12) months, Contractor will not be entitled to any refund for the unused portion of any identification, decals, or permits unless they are reused by Carrier or Carrier receives refund from the State, Carrier will pay to the Contractor, the prorated portion as reused. In the event of termination of the agreement, Contractor will reimburse Carrier for the unused portion of any identification, decals, or permits which are not reused by the Carrier or for which the Carrier does not receive a refund from the State.

**ARTICLE VII: IDENTIFICATION OF EQUIPMENT**

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the STB or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

**ARTICLE VIII: INSURANCE**

**8.01 Obligations of Carrier.** In accordance with the STB Leasing Regulations, Carrier assumes responsibility as a common and contract carrier by motor vehicle to shippers and to the general public with respect to operations of the Equipment hereunder in its behalf. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations. The self-insurance and/or insurance will cover only the public liability, property damage and cargo exposures of Carrier, and Contractor. Contractor's extent of coverage will only apply to those specific incidents when Contractor is not performing a trip assigned to Contractor by the Carrier.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Bobtail Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a so-called Bobtail or Unladen Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the Carrier. In the event the insurance is obtained directly by Contractor, Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier and the policy shall name Carrier as an additional insured.

**8.06 Workers Compensation Insurance.** Contractor will assume responsibility for and purchase, maintain and keep in force Workers Compensation Insurance, at Contractor's expense, for Contractor's own benefit, and for the benefit of drivers, helpers and others employed by Contractor, in such scope, amount and form of coverage as is satisfactory to Carrier, and will provide Carrier with evidence of said insurance in a form satisfactory to Carrier. In the alternative, Contractor may elect and authorize Carrier to purchase said Workers Compensation Insurance on Contractor's own behalf, and on behalf of drivers, helpers and others employed by Contractor at Contractor's expense as set forth in the written addendum to this Agreement, if any, designated as Addendum II, Workers Compensation Insurance Authorization.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Celadon, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Celadon facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

(a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.

(b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.

(c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the STB Leasing Regulations, and except when the violation results from the acts or omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

(d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.

(e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Mileage Based Taxes.** Contractor acknowledges that while it is Contractor's responsibility, as documented in the schedule of Compensation, to pay all mileage based taxes (such as fuel taxes and ton mile taxes) assessed in connection with operation of the Equipment, various states require Carrier to submit reports of such operations and to remit to the states the portion of such taxes which have not been paid directly, such as in connection with fuel purchases. Therefore, Contractor agrees that as required from time to time by Carrier's policies and procedures, it will provide Carrier with receipts and other evidence of direct payment of such taxes which are sufficient, under applicable laws and regulations, to enable Carrier to obtain credit for such direct payments. In the event Contractor fails to do so, or in the event Carrier determines that Contractor has not directly paid the requisite amount of such taxes, such as by not purchasing sufficient fuel in a given state, Carrier will have the right to deduct from Contractor's compensation amounts sufficient to pay such taxes. Contractor will establish with Carrier a reserve fund for payment of fuel and mileage taxes to be funded at the contribution rate of \$.00/mile per tractor, as listed on the Schedule of Equipment and Receipt, as contained herein, for all paid miles. Quarterly adjustments will be made with the Contractor based upon actual fuel and mileage tax liability. Carrier will apply the reserve fund to any deficit in Contractor's mileage based tax payments and, if the amount of such deficit is greater than the reserve fund, Contractor will reimburse Carrier for the amount of such deficit upon demand. Notwithstanding Contractor's obligation to purchase and pay for all fuel consumed in the operation of the Equipment.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments. As determined and reported by the Carrier.

#### ARTICLE X: ESCROW ACCOUNT

**10.01 Required Deposits and Balance.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, an Escrow Account in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto, or such lesser amount for each tractor as may be set forth in the Schedule of Compensation.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account at no lesser rate, and with no lessor frequency, than is required by the STB Leasing Regulations. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the STB Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

**ARTICLE XI: TERM OF AGREEMENT**

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

**ARTICLE XII: MISCELLANEOUS**

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from  
CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above  
described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers,  
etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_ Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to the mileage computer program that is used by carrier, such as the Rand-McNally "Milemaker". Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. MILEAGE COMPENSATION**

**3. Per Mile Compensation.** Carrier will pay contractor on a per-mile basis as outlined below:

	<u>TEAM</u>	<u>SINGLE</u>
All loaded and dispatched empty miles	\$.90	\$.90

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services.

**5. Other Accessorials.**

a) **Extra Stops.** Carrier will pay Contractor for each extra pickup and/or delivery authorized by Carrier and performed by Contractor for a particular shipment (excluding the initial pickup at origin and the ultimate delivery at destination of the shipment) according to the following schedule:

- 1<sup>st</sup> stop off = \$50.00**
- 2<sup>nd</sup> stop off = \$75.00**
- 3<sup>rd</sup> stop off and up = \$125.00 each stop.**

b) **Local or Shag Jobs.** From time to time, Carrier may designate certain services as local or shag jobs (e.g., pickup and/or delivery of trailers or freight within relatively short distances). When such services are so designated by Carrier, and when performed by Contractor, Carrier will pay Contractor Twenty-five Dollars (\$25.00) per job.

c) **Documentation for Accessorials.** As a condition of payment for accessorial as set forth in this Section 5, Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing such accessorial services.

#### IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION

**6. Reimbursement for Toll Charges.** Subject to proper authorization, toll charges will be reimbursed for all states east of and including Pennsylvania, and all states north of and including Virginia. All other tolls are the responsibility of Contractor.

**7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in equipment.

**8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.

**9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.

**10. Mileage Based Taxes.** Contractor will assume at Contractor's expense all fuel and highway tax liability as determined and reported by the Carrier. Contractor will establish with Carrier, a reserve fund for payment of fuel and mileage taxes to be funded at the contribution rate of One Cent (\$.) per mile, per tractor, as listed on the Schedule of Equipment and Receipt as contained herein, for all paid mileage.

**11. Trailer Damage.** Pursuant to Section 4.04 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**12. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement. Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**13. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to Contractor's Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.

**14. Bobtail or Unladen Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase so-called Bobtail or Unladen Liability Insurance for Contractor, Contractor agrees to reimburse Carrier for the amount as documented in Addendum II attached to this Agreement. Such amounts will be deducted from Contractor's per mile compensation on weekly Settlement Statements.

**15. Workers Compensation.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide workers compensation insurance for Contractor and for its drivers, helpers and others employed by the Contractor, Contractor will reimburse Carrier for the cost thereof, as documented in Addendum II of this Agreement. Such amounts will be deducted from Contractor's per mile compensation on weekly Settlement Statements.

**16. Physical Damage.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor will reimburse Carrier for the cost thereof, as documented in addendum II of this Agreement. Such amounts will be deducted from the Contractor's per mile compensation on weekly Settlement Statements.

#### V. ESCROW

**17. Deposit Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of One Thousand Dollars (\$1,000.00) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. The Escrow amount will be secured by an initial deposit of Five Hundred Dollars (\$500.00) per tractor, and Carrier will deduct Fifty Dollars (\$50.00) per week from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches One Thousand Dollars (\$1,000) per tractor.

**VI. MISCELLANEOUS**

**18. Qualcomm.** The Carrier is utilizing Qualcomm Communication Systems. It is agreed that the Carrier will pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. Contractor agrees to jointly share in the utilization cost of the Qualcomm Communication system and to have Fourteen Dollars (\$14.00) deducted weekly, per installed unit, from the Contractor's Weekly Settlement Statement. Contractor also agrees to reimburse Carrier for any repairs that may be necessary to the Qualcomm equipment due to the abuse or negligence on the part of the Contractor. Qualcomm equipment must be serviced by a vendor approved by the Carrier. In the event that the Contractor upgrades or replaces any of the equipment listed on the Schedule of Equipment and Receipt contained herein, the Carrier will reimburse the Contractor (fifty percent) 50% of the cost for the removal and the installation of the Qualcomm Communication System on the upgraded or replacement tractor.

In the event of the termination of the tractor, Carrier will deduct from the Contractor's per mile, weekly Settlement Statement or Escrow Account, all costs incurred for the removal and, if necessary, repair of the Qualcomm Communication System. Contractor agrees to return the Qualcomm Communication System to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein, the Contractor agrees to reimburse to the carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, an amount of Fifty Dollars (\$50.00) per day until the full cost of the system, Four Thousand Dollars (\$4,000.00) has been received by the Carrier. In the event that the Qualcomm Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Carrier will deduct from the Contractor's per mile Weekly Settlement Statement any cost incurred to re-certify or repair the Qualcomm Communication System. Contractor shall have no rights, title or ownership of the Qualcomm Communication System.

**19. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**20. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**21. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF**, the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

**Print Name:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
INSURANCE PROGRAM**

The following described insurance programs are available to the CONTRACTOR. These programs are offered through Celadon's Insurance Agents, based on the request of Celadon Trucking Services Inc. Celadon has agreed to assist the agents in establishing coverages and forwarding the Contractor's insurance payments to the insurance carrier.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement between Celadon Trucking and the CONTRACTOR, the specific insurance programs are optional. CONTRACTORS my provide evidence of insurance coverage that is the same or better than the specific programs described below.

**ELECTION BY CONTRACTOR**

The undersigned CONTRACTOR hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The CONTRACTOR elects coverage of:

<b><u>COVERAGE I:</u></b>	<b><u>Workman's Compensation and/or Occupational Accident Insurance</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	\$1,000,000	
DEDUCTIBLE:	None.	
COST	\$42 per week per driver.	
<b><u>COVERAGE II:</u></b>	<b><u>Bobtail Liability</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	\$1,000,000	
DEDUCTIBLE:	\$1,000	
COST	\$8.08 per week per driver.	
<b><u>COVERAGE III:</u></b>	<b><u>Physical Damage on Tractor</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	Value of the tractor at the time of the incident.	
DEDUCTIBLE:	\$1,000	
COST:	Declared value of the tractor/100 x 4.125/52 = weekly cost.	

The CONTRACTOR elects NOT to participate in the above described Insurance Program(s) and agrees to provide Celadon Trucking Services with evidence of acceptable alternative insurance coverage and arrange for Celadon Trucking, Inc. to be named as additional insured under such insurance policies.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
WORKERS COMPENSATION INSURANCE AUTHORIZATION**

I hereby certify and affirm that I am in the business of providing transportation services under a Contractor Operating Agreement (the "Agreement") with Celadon Trucking Services, Inc., a common and contract carrier, which has its principal place of business in the State of Indiana ("Carrier"); that the Agreement is made pursuant to 49 C.F.R. 1057; that my Agreement with Carrier was entered into in the State of Indiana; that I receive orientation with respect to the Agreement in or from the State of Indiana; and that I receive dispatch assignments for my transportation services in or from the State of Indiana.

In accordance with the provisions of I.C. 22-3-6-1(b)(8) and I.C. 22-3-7-9(b)(6) of the workers compensation statutes of the State of Indiana, I recognize I am an independent contractor and not an employee of Carrier for purposes of workers compensation insurance, but that I may elect to be covered and have my employees covered under a workers compensation insurance policy or authorized self insurance that insures Carrier, provided I pay the premiums as required by Carrier. I further recognize that my election to be covered does not terminate my independent contractor status.

Accordingly, I specifically authorize Carrier to arrange for said insurance, at my expense, and I acknowledge that the cost to me for procuring said insurance coverage will be provided in the Schedule of Compensation to this Agreement. Further, I elect to be covered for worker's compensation solely and exclusively under the laws of the State of Indiana.

This Addendum III, Workers Compensation Insurance Authorization, is intended to be and is hereby incorporated in and made a part of the Agreement between the undersigned and Celadon Trucking Services, Inc.

CONTRACTOR:

CARRIER:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV**

**COVENANT NOT TO COMPETE  
ADDENDUM TO CONTRACTOR OPERATING AGREEMENT**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement, Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM V**

**INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

1) Name: \_\_\_\_\_

2) Address: \_\_\_\_\_  
\_\_\_\_\_

3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

1) Name of Corporation: \_\_\_\_\_

2) State of Incorporation: \_\_\_\_\_

3) Date of Incorporation: \_\_\_\_\_

4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

5) Principal Address of Corporation \_\_\_\_\_

6) Registered Agent

\_\_\_\_\_  
(Name and Address)

7) Name of Officer Who Will Sign Contracts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM VI**

**CONTRACTOR MISCELLANEOUS FEES ADDENDUM**

Contractor has provided to Celadon under this agreement equipment and drivers to meet the transportation service requirements of Celadon and Celadon has used and benefited from Contractor's services.

In consideration of the mutual agreements and services provided by both parties under the agreement and good and valuable consideration, both Celadon and the Contractor desire to amend and modify the agreement in the following respects:

1. Celadon will continue to advance monies to the Contractor from time to time as requested by the Contractor and approved by Celadon. However the fee charges to the Contractor provided by Celadon for providing this service to the Contractor shall be as follows:
  - A. \$ 3.00 per advance if the Contractor purchases fuel at a Celadon designated fuel location.
  - B. \$ 7.50 per advance if the Contractor does not purchase fuel at a Celadon designated location at the time the advance is requested and paid.
2. Advance(s) in the amount of \$500.00 or more must be reflected in a written promissory note between the Contractor and Celadon before the advance is made by Celadon to the Contractor.
3. The Contractor is not obligated in any way to request the advance(s) from Celadon while the Contractor is providing services for Celadon under the agreement.
4. Future modifications in the amounts of advance fees and the other miscellaneous fees set forth in the agreement between Celadon and the Contractor can be unilaterally made by Celadon provided that Celadon provides the Contractor with thirty (30) days prior written notice of the fees or service charge modifications. During the thirty (30) day notice period the Contractor can reject the fee or service charge modification by providing Celadon with a written rejection of the fee modification. If however the Contractor fails or refuses to file a written rejection with Celadon within the thirty (30) day notice period, it will be presumed that the Contractor agrees to the proposed fee and service charge modifications.
5. For the mutual benefit of both Celadon and the Contractor, it is hereby agreed that if either Celadon or the Contractor fails to file a written objection with the other party regarding a momentary related dispute of any type under the agreement within sixty (60) days of when the monetary dispute was discovered or should have been discovered, the objecting party's claim in that regard would be waived and forever barred.
6. The modifications set forth herein will be fully incorporated into the agreement between Celadon and the Contractor.

Celadon Trucking Services, Inc.

CONTRACTOR

Name: \_\_\_\_\_  
(Printed Name)

Name: \_\_\_\_\_  
(Printed Name)

By : \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

Title: \_\_\_\_\_  
(If Corporation or Partnership)

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

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

AMMENDMENT/SUPPLEMENT TO CONTRACTOR OPERATING AGREEMENT

The contractor Operating Agreement ("Agreement") entered into between Contractor and Carrier on January 24, 2000, is hereby amended/supplemented on the date written below as follows:

Article IX: Contractor's Responsibilities  
9.03 Mileage Based Taxes

Because of the inability to establish the reserve fund as outlined in this item CARRIER agrees to pay the mileage based taxes, subject to receipt from CONTRACTOR, of all receipts and evidence of direct payment of mileage based taxes as required and outlined in Article IV, paragraph 9.

Except for the amendment(s)/supplements(s) expressly set forth above, all other terms of the Agreement remain in full force and effect.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Signature of Carrier

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AMENDMENT TO CONTRACTOR OPERATING AGREEMENT**

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

**WHEREAS**, Celadon Trucking Services, Inc. ("Carrier") and \_\_\_\_\_ ("Contractor") have entered into a Contractor Operating Agreement ("Agreement") pursuant to which Carrier utilizes Contractor's vehicular equipment ("Equipment") and services in its business, and Contractor operates said Equipment and provides services under contract to Carrier in connection with Carrier's business.

**WHEREAS**, Carrier and Contractor agree that said Contract should be amended to conform with Carrier requirements that said vehicular equipment be inspected by Contractor on a quarterly or semi-annual basis.

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

The parties' Agreement is hereby amended by deleting Paragraph 9.01, Regulatory Requirements, and in its place substitute the following paragraph in said Agreement:

**9.01 Regulatory Requirements.** Contractor will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Celadon, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Celadon facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same.

In the event of a conflict between the terms of this Amendment and any term, condition or provision of the Agreement, the terms of this Amendment shall govern, and the Agreement shall be modified accordingly.

All other provisions of the Agreement, not specifically changed by this Amendment, shall remain in full force and effect and be binding upon the parties. This Amendment shall be effective on the date set forth above.

Celadon Trucking Services, Inc.

By: \_\_\_\_\_  
Vice President Recruiting Contractor

**DEF00167**

**ADDENDUM II  
INSURANCE PROGRAM**

The following described insurance programs are available to the CONTRACTOR. These programs are offered through Celadon's Insurance Agents, based on the request of Celadon Trucking Services Inc. Celadon has agreed to assist the agents in establishing coverages and forwarding the Contractor's insurance payments to the insurance carrier.

Although the types of coverages described in I, II, and III (below) are required by law the lease agreement between Celadon Trucking and the CONTRACTOR, the specific insurance programs are optional. CONTRACTORS may provide evidence of insurance coverage that is the same or better than the specific programs described below.

**ELECTION BY CONTRACTOR**

The undersigned CONTRACTOR hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The CONTRACTOR elects coverage of:

<b><u>COVERAGE I:</u></b>	<b><u>Workman's Compensation and/or Occupational Accident Insurance</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	\$1,000,000	
DEDUCTIBLE:	None.	
COST	\$42 per week per driver.	
<b><u>COVERAGE III:</u></b>	<b><u>Bobtail Liability</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	\$1,000,000	
DEDUCTIBLE:	\$1,000	
COST	\$8.08 per week per driver.	
<b><u>COVERAGE IV:</u></b>	<b><u>Physical Damage on Tractor</u></b>	<b>X</b> _____
LIMIT OF LIABILITY:	Value of the tractor at the time of the incident.	
DEDUCTIBLE:	\$1,000	
COST:	Declared value of the tractor/100 x 4.125/52 = weekly cost.	

The CONTRACTOR elects NOT to participate in the above described Insurance Program(s) and agrees to provide Celadon Trucking Services with evidence of acceptable alternative insurance coverage and arrange for Celadon Trucking, Inc. to be named as additional insured under such insurance policies.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**DEF00168**

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier only with the prior written consent of Carrier in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** In accordance with the FMCSA Leasing Regulations, Carrier will be considered as the "owner" of the Equipment for the purpose of subcontracting or trip leasing the Equipment to other authorized carriers, such subcontracting or trip leasing is to take place only with Carrier's express authorization and subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the

Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

#### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

#### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

#### ARTICLE V: COMPENSATION

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 4.04, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor.
- (e) Any amounts required from time to time to maintain Contractor's Escrow Account at the prescribed level as provided in Section 10.01 hereof.
- (f) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses and Permits.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier will maintain at Carrier's expense the continued cost of all identification, permits and decals. Carrier will at Carrier's expense during the entire term of the agreement, pay for the base plate license required for the operation of the equipment after twelve (12) months continued service. First year base plate deductions will be 52 deductions of \$28.00 per power unit.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination. In the event of termination of the agreement during the first twelve (12) months, Contractor will not be entitled to any refund for the unused portion of any identification, decals, or permits unless they are reused by Carrier or Carrier receives refund from the State. Carrier will pay to the Contractor, the prorated portion as reused. In the event of termination of the agreement, which includes a period of at least twelve (12) months of continuous operation, Contractor will reimburse Carrier for the unused portion of any identification, decals, or permits which are not reused by the Carrier or for which the Carrier does not receive a refund from the State.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the

Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

**8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-funded coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF**:
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, 1.1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or

loading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractors a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### ARTICLE X: ESCROW ACCOUNT

**10.01 Required Deposits and Balance.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, an Escrow Account in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto, or such lesser amount for each tractor as may be set forth in the Schedule of Compensation.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

**ARTICLE XI: TERM OF AGREEMENT**

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

**ARTICLE XII: MISCELLANEOUS**

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other

or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**CARRIER:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date of Carrier's  
Countersignature: \_\_\_\_\_  
Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. MILEAGE COMPENSATION**

**3. Per Mile Compensation.** Carrier will pay contractor on a per-mile basis as outlined below:

	<u>TEAM</u>	<u>SINGLE</u>
All loaded and dispatched empty miles	\$.90	\$.90

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**5. Other Accessorials.**

a) **Extra Stops.** Carrier will pay Contractor for each extra pickup and/or delivery authorized by Carrier and performed by Contractor for a particular shipment (excluding the initial pickup at origin and the ultimate delivery at destination of the shipment) according to the following schedule:

- 1<sup>st</sup> stop off = \$50.00**
- 2<sup>nd</sup> stop off = \$75.00**
- 3<sup>rd</sup> stop off and up = \$125.00 each stop.**

b) **Local or Shag Jobs.** From time to time, Carrier may designate certain services as local or shag jobs (e.g., pickup and/or delivery of trailers or freight within relatively short distances). When such services are so designated by Carrier, and when performed by Contractor, Carrier will pay Contractor Twenty-five Dollars (\$25.00) per job.

c) **Documentation for Accessorials.** As a condition of payment for accessorial as set forth in this Section 5, Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing such accessorial services.

d) **Fuel Surcharge.** For all loaded and dispatched empty miles (or authorized deadhead miles), Carrier will pay Contractor the following fuel-surcharge rate-per-mile based on the weekly On-Highway Diesel Fuel Price for the United States as published online (at <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>) by the

Energy Information Administration of the U.S. Department of Energy ("DOE") as of the date of settlement. For purposes of fuel-surcharge, all mileage shall be based on version 18 of Rand McNally' MileMaker@ computerized mileage guide, calculated by Shortest Miles.

Diesel Fuel Price Published by DOE	Fuel-Surcharge Per Mile	Diesel Fuel Price Published by DOE	Fuel-Surcharge Per Mile
\$3.525-\$3.559	\$0.330	\$3.910-\$3.944	\$0.385
\$3.560-\$3.594	\$0.335	\$3.945-\$3.979	\$0.390
\$3.595-\$3.629	\$0.340	\$3.980-\$4.014	\$0.395
\$3.630-\$3.664	\$0.345	\$4.015-\$4.049	\$0.400
\$3.665-\$3.699	\$0.350	\$4.050-\$4.084	\$0.405
\$3.700-\$3.734	\$0.355	\$4.085-\$4.119	\$0.410
\$3.735-\$3.769	\$0.360	\$4.120-\$4.154	\$0.415
\$3.770-\$3.804	\$0.365	\$4.155-\$4.189	\$0.420
\$3.805-\$3.839	\$0.370	\$4.190-\$4.224	\$0.425
\$3.840-\$3.874	\$0.375	\$4.225-\$4.259	\$0.430
\$3.875-\$3.909	\$0.380	\$4.260-\$4.294	\$0.435

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

- 6. Reimbursement for Toll Charges.** Subject to proper authorization, toll charges will be reimbursed for all states east of and including Pennsylvania, and all states north of and including Virginia. All other tolls are the responsibility of Contractor.
- 7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.
- 8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.
- 9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.
- 10. Mileage Based Taxes.** Contractor will assume at Contractor's expense all fuel and highway tax liability as determined and reported by the Carrier. Contractor will establish with Carrier, a reserve fund for payment of fuel and mileage taxes to be funded at the contribution rate of One Cent (\$0.01) per mile, per tractor, as listed on the Schedule of Equipment and Receipt as contained herein, for all paid mileage.
- 11. Trailer Damage.** Pursuant to Section 4.04 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 12. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 13. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to Contractor's Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.
- 14. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.
- 15. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**16. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.

**17. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.

**18. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

**19. Deposit Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of One Thousand Five Dollars (\$1,500) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. The Escrow amount will be secured by an initial deposit of Five Hundred Dollars (\$500.00) per tractor, and Carrier will deduct Fifty Dollars (\$50.00) per week from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches One Thousand Five Dollars (\$1,500) per tractor.

#### VI. MISCELLANEOUS

**20. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitracs MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier will pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. Contractor agrees to jointly share in the utilization cost of the Qualcomm Communication system and to have Fourteen Dollars (\$14.00) deducted weekly, per installed unit, from the Contractor's Weekly Settlement Statement. Contractor also agrees to reimburse Carrier for any repairs that may be necessary to the Qualcomm equipment due to the abuse or negligence on the part of the Contractor. Qualcomm equipment must be serviced by a vendor approved by the Carrier. In the event that the Contractor upgrades or replaces any of the equipment listed on the Schedule of Equipment and Receipt contained herein, the Carrier will reimburse the Contractor (fifty percent) 50% of the cost for the removal and the installation of the Qualcomm/Omnitracs Communication System on the upgraded or replacement tractor.

In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier will deduct from the Contractor's per mile, weekly Settlement Statement or Escrow Account, all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein, the Contractor agrees to reimburse to the Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, an amount of Fifty Dollars (\$50.00) per day until the full cost of the system, Four Thousand Dollars (\$4,000.00), has been received by the Carrier. In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Carrier will deduct from the Contractor's per mile Weekly Settlement Statement any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**21. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**22. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**23. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

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

Print Name: \_\_\_\_\_

**Carrier:**

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

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST: \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST: \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Value of the tractor at the time of the incident.  
DEDUCTIBLE: \$1,000  
COST: Declared value of the tractor/100 x 4.125/52 (incl. admin. fee to Carrier).

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

- 5) Principal Address of Corporation \_\_\_\_\_

- 6) Registered Agent  
\_\_\_\_\_  
(Name and Address)

- 7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_

- 8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier only with the prior written consent of Carrier in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** In accordance with the FMCSA Leasing Regulations, Carrier will be considered as the "owner" of the Equipment for the purpose of subcontracting or trip leasing the Equipment to other authorized carriers, such subcontracting or trip leasing is to take place only with Carrier's express authorization and subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the

Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

#### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

#### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

**ARTICLE V: COMPENSATION**

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 4.04, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor.
- (e) Any amounts required from time to time to maintain Contractor's Escrow Account at the prescribed level as provided in Section 10.01 hereof.
- (f) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses and Permits.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier will maintain at Carrier's expense the continued cost of all identification, permits and decals. Carrier will at Carrier's expense during the entire term of the agreement, pay for the base plate license required for the operation of the equipment after twelve (12) months continued service. First year base plate deductions will be 52 deductions of \$28.00 per power unit.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination. In the event of termination of the agreement during the first twelve (12) months, Contractor will not be entitled to any refund for the unused portion of any identification, decals, or permits unless they are reused by Carrier or Carrier receives refund from the State, Carrier will pay to the Contractor, the prorated portion as reused. In the event of termination of the agreement, which includes a period of at least twelve (12) months of continuous operation, Contractor will reimburse Carrier for the unused portion of any identification, decals, or permits which are not reused by the Carrier or for which the Carrier does not receive a refund from the State.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the

Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

**8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF**:
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or

loading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractor's a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### ARTICLE X: ESCROW ACCOUNT

**10.01 Required Deposits and Balance.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, an Escrow Account in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto, or such lesser amount for each tractor as may be set forth in the Schedule of Compensation.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### ARTICLE XI: TERM OF AGREEMENT

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### ARTICLE XII: MISCELLANEOUS

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other

or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. MILEAGE COMPENSATION**

**3. Compensation** Carrier will pay contractor a percentage of the gross revenue, including linehaul charges, accessorials and fuel surcharge, which Carrier derives on a per-trip basis as outlined below:

70% gross trip revenue for on time service on the pick up and delivery  
60% gross trip revenue if not on time for pick up and delivery

Contractor shall be paid for Celadon designated empty miles (equipment moves only, not deadhead miles under load dispatch) at the rate of \$.94 per mile without fuel surcharge.

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Toll Charges.** All tolls are the responsibility of Contractor.

**7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.

**8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.

**9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.

**10. Mileage Based Taxes.** Contractor will assume at Contractor's expense all fuel and highway tax liability as determined and reported by the Carrier. Contractor will establish with Carrier, a reserve fund for payment of fuel and

mileage taxes to be funded at the contribution rate of One Cent (\$0.01) per mile, per tractor, as listed on the Schedule of Equipment and Receipt as contained herein, for all dispatched mileage.

**11. Trailer Damage.** Pursuant to Section 4.04 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**12. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**13. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to Contractor's Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.

**14. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**15. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**16. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.

**17. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.

**18. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

**19. Deposit Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of One Thousand Five Dollars (\$1,500) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct Fifty Dollars (\$50.00) per week from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches One Thousand Five Dollars (\$1,500) per tractor.

#### VI. MISCELLANEOUS

**20. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier will pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. Contractor agrees to jointly share in the utilization cost of the Qualcomm Communication system and to have Fourteen Dollars (\$14.00) deducted weekly, per installed unit, from the Contractor's Weekly Settlement Statement. Contractor also agrees to reimburse Carrier for any repairs that may be necessary to the Qualcomm equipment due to the abuse or negligence on the part of the Contractor. Qualcomm equipment must be serviced by a vendor approved by the Carrier. In the event that the Contractor upgrades or replaces any of the equipment listed on the Schedule of Equipment and Receipt contained herein, the Carrier will reimburse the Contractor (fifty percent) 50% of the cost for the removal and the installation of the Qualcomm/Omnitracs Communication System on the upgraded or replacement tractor.

In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier shall have the option to deduct from the General Escrow Account and from Contractor's weekly Settlement Sheet all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. In addition, Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein. In the event Contractor fails to return the system, Contractor shall reimburse Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, the full cost of the system, Four Thousand Dollars (\$4,000.00). In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Contractor will be liable for any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. In the event Contractor has other tractors under contract with Carrier, Contractor agrees to allow Carrier to deduct an amount of Fifty Dollars (\$50.00) per week until either all damages to the system have been paid, or if the system was not returned, the full cost of the system has been received by the Carrier. Notwithstanding, Contractor will remain liable for any uncollected damage or costs associated with the use and possession of the Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**21. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**22. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**23. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Value of the tractor at the time of the incident.  
DEDUCTIBLE: \$1,000  
COST: Declared value of the tractor/100 x 4.125/52 (incl. admin. fee to Carrier).

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X**\_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

5) Principal Address \_\_\_\_\_  
of Corporation

6) Registered Agent  
\_\_\_\_\_  
(Name and Address)  
\_\_\_\_\_

7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.  
(Students)  
CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier only with the prior written consent of Carrier in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** In accordance with the FMCSA Leasing Regulations, Carrier will be considered as the "owner" of the Equipment for the purpose of subcontracting or trip leasing the Equipment to other authorized carriers, such subcontracting or trip leasing is to take place only with Carrier's express authorization and subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the

Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

#### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

#### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

**ARTICLE V: COMPENSATION**

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 4.04, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor.
- (e) Any amounts required from time to time to maintain Contractor's Escrow Account at the prescribed level as provided in Section 10.01 hereof.
- (f) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses and Permits.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier will maintain at Carrier's expense the continued cost of all identification, permits and decals. Carrier will at Carrier's expense during the entire term of the agreement, pay for the base plate license required for the operation of the equipment after twelve (12) months continued service. First year base plate deductions will be 52 deductions of \$28.00 per power unit.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination. In the event of termination of the agreement during the first twelve (12) months, Contractor will not be entitled to any refund for the unused portion of any identification, decals, or permits unless they are reused by Carrier or Carrier receives refund from the State, Carrier will pay to the Contractor, the prorated portion as reused. In the event of termination of the agreement, which includes a period of at least twelve (12) months of continuous operation, Contractor will reimburse Carrier for the unused portion of any identification, decals, or permits which are not reused by the Carrier or for which the Carrier does not receive a refund from the State.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the

Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

**8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF**:
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or

loading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractor's a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### ARTICLE X: ESCROW ACCOUNT

**10.01 Required Deposits and Balance.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, an Escrow Account in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto, or such lesser amount for each tractor as may be set forth in the Schedule of Compensation.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### ARTICLE XI: TERM OF AGREEMENT

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### ARTICLE XII: MISCELLANEOUS

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other

or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

---

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

---

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. MILEAGE COMPENSATION**

**3. Compensation** Carrier will pay contractor a percentage of the gross revenue, including linehaul charges, accessorials and fuel surcharge, which Carrier derives on a per-trip basis as outlined below:

64% gross trip revenue for on time service on the pick up and delivery  
54% gross trip revenue if not on time for pick up and delivery

Contractor shall be paid for Celadon designated empty miles (equipment moves only, not deadhead miles under load dispatch) at the rate of \$.94 per mile without fuel surcharge.

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Toll Charges.** All tolls are the responsibility of Contractor.

**7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.

**8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.

**9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.

**10. Mileage Based Taxes.** Contractor will assume at Contractor's expense all fuel and highway tax liability as determined and reported by the Carrier. Contractor will establish with Carrier, a reserve fund for payment of fuel and

mileage taxes to be funded at the contribution rate of One Cent (\$0.01) per mile, per tractor, as listed on the Schedule of Equipment and Receipt as contained herein, for all dispatched mileage.

**11. Trailer Damage.** Pursuant to Section 4.04 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**12. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**13. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to Contractor's Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.

**14. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**15. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**16. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.

**17. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.

**18. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

**19. Deposit Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of One Thousand Five Dollars (\$1,500) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct Fifty Dollars (\$50.00) per week from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches One Thousand Five Dollars (\$1,500) per tractor.

#### VI. MISCELLANEOUS

**20. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier will pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. Contractor agrees to jointly share in the utilization cost of the Qualcomm Communication system and to have Fourteen Dollars (\$14.00) deducted weekly, per installed unit, from the Contractor's Weekly Settlement Statement. Contractor also agrees to reimburse Carrier for any repairs that may be necessary to the Qualcomm equipment due to the abuse or negligence on the part of the Contractor. Qualcomm equipment must be serviced by a vendor approved by the Carrier. In the event that the Contractor upgrades or replaces any of the equipment listed on the Schedule of Equipment and Receipt contained herein, the Carrier will reimburse the Contractor (fifty percent) 50% of the cost for the removal and the installation of the Qualcomm/Omnitracs Communication System on the upgraded or replacement tractor.

In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier shall have the option to deduct from the General Escrow Account and from Contractor's weekly Settlement Sheet all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. In addition, Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein. In the event Contractor fails to return the system, Contractor shall reimburse Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, the full cost of the system, Four Thousand Dollars (\$4,000.00). In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Contractor will be liable for any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. In the event Contractor has other tractors under contract with Carrier, Contractor agrees to allow Carrier to deduct an amount of Fifty Dollars (\$50.00) per week until either all damages to the system have been paid, or if the system was not returned, the full cost of the system has been received by the Carrier. Notwithstanding, Contractor will remain liable for any uncollected damage or costs associated with the use and possession of the Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**21. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**22. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**23. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Value of the tractor at the time of the incident.  
DEDUCTIBLE: \$1,000  
COST: Declared value of the tractor/100 x 4.125/52 (incl. admin. fee to Carrier).

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X**\_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

5) Principal Address \_\_\_\_\_  
of Corporation

6) Registered Agent  
\_\_\_\_\_  
(Name and Address)

7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier only with the prior written consent of Carrier in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** In accordance with the FMCSA Leasing Regulations, Carrier will be considered as the "owner" of the Equipment for the purpose of subcontracting or trip leasing the Equipment to other authorized carriers, such subcontracting or trip leasing is to take place only with Carrier's express authorization and subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the

Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

#### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

#### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

**ARTICLE V: COMPENSATION**

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 4.04, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor.
- (e) Any amounts required from time to time to maintain Contractor's Escrow Account at the prescribed level as provided in Section 10.01 hereof.
- (f) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses and Permits.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier will maintain at Carrier's expense the continued cost of all identification, permits and decals. Carrier will at Carrier's expense during the entire term of the agreement, pay for the base plate license required for the operation of the equipment after twelve (12) months continued service. First year base plate deductions will be 52 deductions of \$28.00 per power unit.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination. In the event of termination of the agreement during the first twelve (12) months, Contractor will not be entitled to any refund for the unused portion of any identification, decals, or permits unless they are reused by Carrier or Carrier receives refund from the State, Carrier will pay to the Contractor, the prorated portion as reused. In the event of termination of the agreement, which includes a period of at least twelve (12) months of continuous operation, Contractor will reimburse Carrier for the unused portion of any identification, decals, or permits which are not reused by the Carrier or for which the Carrier does not receive a refund from the State.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the

Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

**8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF**:
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or

loading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractor's a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### **ARTICLE X: ESCROW ACCOUNT**

**10.01 Required Deposits and Balance.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, an Escrow Account in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto, or such lesser amount for each tractor as may be set forth in the Schedule of Compensation.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### ARTICLE XI: TERM OF AGREEMENT

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### ARTICLE XII: MISCELLANEOUS

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other

or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. MILEAGE COMPENSATION**

**3. Per Mile Compensation.** Carrier will pay contractor on a per-mile basis as outlined below:

	<u>TEAM</u>	<u>SINGLE</u>
All loaded and dispatched empty miles.	\$.94	\$.94

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**5. Other Accessorials.**

a) **Extra Stops.** Carrier will pay Contractor for each extra pickup and/or delivery authorized by Carrier and performed by Contractor for a particular shipment (excluding the initial pickup at origin and the ultimate delivery at destination of the shipment) according to the following schedule:

- 1<sup>st</sup> stop off = \$50.00**
- 2<sup>nd</sup> stop off = \$75.00**
- 3<sup>rd</sup> stop off and up = \$125.00 each stop.**

b) **Local or Shag Jobs.** From time to time, Carrier may designate certain services as local or shag jobs (e.g., pickup and/or delivery of trailers or freight within relatively short distances). When such services are so designated by Carrier, and when performed by Contractor, Carrier will pay Contractor Twenty-five Dollars (\$25.00) per job.

c) **Documentation for Accessorials.** As a condition of payment for accessorial as set forth in this Section 5, Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing such accessorial services.

d) **Fuel Surcharge.** For all loaded miles Carrier will pay Contractor the following fuel-surcharge rate-per-mile based on the weekly On-Highway Diesel Fuel Price for the United States as published online (at <http://tonto.eia.doe.gov/ooq/info/wohdp/diesel.asp>) by the Energy Information Administration of the U.S.

Department of Energy (“DOE”) as of the date of settlement. For purposes of fuel-surcharge, all mileage shall be based on version 18 of Rand McNally’ MileMaker® computerized mileage guide, calculated by Shortest Miles.

Diesel Fuel Price Published by DOE	Fuel-Surcharge Per Mile	Diesel Fuel Price Published by DOE	Fuel-Surcharge Per Mile
\$3.525-\$3.559	\$0.330	\$3.910-\$3.944	\$0.385
\$3.560-\$3.594	\$0.335	\$3.945-\$3.979	\$0.390
\$3.595-\$3.629	\$0.340	\$3.980-\$4.014	\$0.395
\$3.630-\$3.664	\$0.345	\$4.015-\$4.049	\$0.400
\$3.665-\$3.699	\$0.350	\$4.050-\$4.084	\$0.405
\$3.700-\$3.734	\$0.355	\$4.085-\$4.119	\$0.410
\$3.735-\$3.769	\$0.360	\$4.120-\$4.154	\$0.415
\$3.770-\$3.804	\$0.365	\$4.155-\$4.189	\$0.420
\$3.805-\$3.839	\$0.370	\$4.190-\$4.224	\$0.425
\$3.840-\$3.874	\$0.375	\$4.225-\$4.259	\$0.430
\$3.875-\$3.909	\$0.380	\$4.260-\$4.294	\$0.435

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Reimbursement for Toll Charges.** Subject to proper authorization, toll charges will be reimbursed for all states east of and including Pennsylvania, and all states north of and including Virginia. All other tolls are the responsibility of Contractor.

**7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.

**8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.

**9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier’s instructions.

**10. Mileage Based Taxes.** Contractor will assume at Contractor’s expense all fuel and highway tax liability as determined and reported by the Carrier. Contractor will establish with Carrier, a reserve fund for payment of fuel and mileage taxes to be funded at the contribution rate of One Cent (\$0.01) per mile, per tractor, as listed on the Schedule of Equipment and Receipt as contained herein, for all paid mileage.

**11. Trailer Damage.** Pursuant to Section 4.04 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**12. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**13. Other Deductions.** Carrier may make deductions on Contractor’s Settlement Statements or to Contractor’s Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.

**14. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier’s expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor’s compensation on weekly Settlement Statements.

**15. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier’s expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor’s compensation on weekly Settlement Statements.

**16. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.

**17. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.

**18. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

**19. Deposit Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of One Thousand Five Dollars (\$1,500) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct Fifty Dollars (\$50.00) per week from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches One Thousand Five Dollars (\$1,500) per tractor.

#### VI. MISCELLANEOUS

**20. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier will pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. Contractor agrees to jointly share in the utilization cost of the Qualcomm Communication system and to have Fourteen Dollars (\$14.00) deducted weekly, per installed unit, from the Contractor's Weekly Settlement Statement. Contractor also agrees to reimburse Carrier for any repairs that may be necessary to the Qualcomm equipment due to the abuse or negligence on the part of the Contractor. Qualcomm equipment must be serviced by a vendor approved by the Carrier. In the event that the Contractor upgrades or replaces any of the equipment listed on the Schedule of Equipment and Receipt contained herein, the Carrier will reimburse the Contractor (fifty percent) 50% of the cost for the removal and the installation of the Qualcomm/Omnitracs Communication System on the upgraded or replacement tractor.

In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier will deduct from the Contractor's per mile, weekly Settlement Statement or Escrow Account, all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein, the Contractor agrees to reimburse to the Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, an amount of Fifty Dollars (\$50.00) per day until the full cost of the system, Four Thousand Dollars (\$4,000.00), has been received by the Carrier. In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Carrier will deduct from the Contractor's per mile Weekly Settlement Statement any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**21. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**22. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**23. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

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

Print Name: \_\_\_\_\_

**Carrier:**

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

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Value of the tractor at the time of the incident.  
DEDUCTIBLE: \$1,000  
COST: Declared value of the tractor/100 x 4.125/52 (incl. admin. fee to Carrier).

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

5) Principal Address \_\_\_\_\_  
of Corporation

6) Registered Agent

\_\_\_\_\_  
(Name and Address)

7) Name of Officer Who Will Sign Contracts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier but must contact Carrier to insure decals, DOT authority and MC number are not used for another carrier, in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** Subcontracting or trip leasing with other carrier is subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

### ARTICLE V: COMPENSATION

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor, such as transactions in which the driver requested borrowed funds at the initial purchase point. i.e. fuel, payroll advances, lumpers, etc.
- (e) Any amounts required from time to time to maintain the Escrow Account at the prescribed level as provided in Article X hereof.
- (f) Charge backs such as transactions in which the funds were paid at point of purchase by Celadon and which are now being deducted from the driver's settlement, i.e. tolls, trailer wash, air/cuff lock & key, etc.
- (g) Recurring Deductions, such as weekly "bills" that a driver is charged, i.e. truck payment, insurance, Qualcomm fee, etc. .
- (h) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses, Permits, Plates and Heavy Use Tax.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier shall also prepare and file the heavy highway use tax form on Contractor's equipment. Contractor will maintain at Contractor's expense the continued cost of all identification, permits and decals. Contractor shall also pay the Carrier the heavy use tax. Contractor will pay Carrier the amount of \$40 per week to cover the permits, decals, plates and heavy use tax, and Carrier will deduct such amount from Contractor's weekly settlement.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such

time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

#### **8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF:**
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and

any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, or other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or

omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractors a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### **ARTICLE X: ESCROW ACCOUNT**

**10.01 Maintenance and Owings Escrow Account.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, a maintenance and owings escrow account ("Escrow Account") in the amount of Five Thousand Dollars (\$5,000.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto. Carrier will have the right from time to time, in its discretion, to apply all or any portion of Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### **ARTICLE XI: TERM OF AGREEMENT**

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### **ARTICLE XII: MISCELLANEOUS**

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

---

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

---

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. COMPENSATION**

**3. Compensation** Carrier will pay contractor a percentage of the gross revenue, including linehaul charges, accessorials and fuel surcharge, which Carrier derives on a per-trip basis as outlined below:

70% gross trip revenue for on time service on the pick up and delivery  
60% gross trip revenue if not on time for pick up and delivery

Contractor shall be paid for Celadon designated empty miles (equipment moves only, not deadhead miles under load dispatch) at the rate of \$.94 per mile without fuel surcharge.

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Toll Charges.** All tolls are the responsibility of Contractor.

**7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.

**8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.

**9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.

**10. Trailer Damage.** Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage to Carrier's trailer resulting from an act or omission of Contractor, its drivers or other employees or agents.

**11. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.

**12. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to the Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.

**13. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**14. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.

**15. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.

**16. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.

**17. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

**18. Deposits Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of Five Thousand Dollars (\$5,000.00) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct \$.05 per mile from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches \$5,000.00 per tractor, and thereafter as necessary to replenish said Escrow Account.

#### VI. MISCELLANEOUS

**19. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier may have to pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier shall have the option to deduct from the Escrow Account and from Contractor's weekly Settlement Sheet all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. In addition, Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein. In the event Contractor fails to return the system, Contractor shall reimburse Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, the full cost of the system, Four Thousand Dollars (\$4,000.00). In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Contractor will be liable for any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. In the event Contractor has other tractors under contract with Carrier, Contractor agrees to allow Carrier to deduct an amount of Fifty Dollars (\$50.00) per week until either all damages to the system have been paid, or if the system was not returned, the full cost of the system has been received by the Carrier. Notwithstanding, Contractor will remain liable for any uncollected damage or costs

associated with the use and possession of the Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**20. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**21. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**22. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Based on value of the tractor.  
DEDUCTIBLE: \$5,000

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

- 5) Principal Address \_\_\_\_\_  
of Corporation

- 6) Registered Agent

\_\_\_\_\_  
(Name and Address)

- 7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier but must contact Carrier to insure decals, DOT authority and MC number are not used for another carrier, in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** Subcontracting or trip leasing with other carrier is subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

### ARTICLE III: FREIGHT

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

### ARTICLE IV: TRAILERS

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

### ARTICLE V: COMPENSATION

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor, such as transactions in which the driver requested borrowed funds at the initial purchase point. i.e. fuel, payroll advances, lumpers, etc.
- (e) Any amounts required from time to time to maintain the Escrow Account at the prescribed level as provided in Article X hereof.
- (f) Charge backs such as transactions in which the funds were paid at point of purchase by Celadon and which are now being deducted from the driver's settlement, i.e. tolls, trailer wash, air/cuff lock & key, etc.
- (g) Recurring Deductions, such as weekly "bills" that a driver is charged, i.e. truck payment, insurance, Qualcomm fee, etc. .
- (h) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses, Permits, Plates and Heavy Use Tax.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier shall also prepare and file the heavy highway use tax form on Contractor's equipment. Contractor will maintain at Contractor's expense the continued cost of all identification, permits and decals. Contractor shall also pay the Carrier the heavy use tax. Contractor will pay Carrier the amount of \$40 per week to cover the permits, decals, plates and heavy use tax, and Carrier will deduct such amount from Contractor's weekly settlement.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such

time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

#### **8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF:**
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and

any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, or other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or

omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractors a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### **ARTICLE X: ESCROW ACCOUNT**

**10.01 Maintenance and Owings Escrow Account.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, a maintenance and owings escrow account ("Escrow Account") in the amount of Five Thousand Dollars (\$5,000.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto. Carrier will have the right from time to time, in its discretion, to apply all or any portion of Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### **ARTICLE XI: TERM OF AGREEMENT**

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### **ARTICLE XII: MISCELLANEOUS**

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

---

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

---

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. COMPENSATION**

**3. Compensation** Carrier will pay contractor a percentage of the gross revenue, including linehaul charges, accessorials and fuel surcharge, which Carrier derives on a per-trip basis as outlined below:

70% gross trip revenue for on time service on the pick up and delivery  
60% gross trip revenue if not on time for pick up and delivery

Contractor shall be paid for Celadon designated empty miles (equipment moves only, not deadhead miles under load dispatch) at the rate of \$.94 per mile without fuel surcharge.

Contractor shall be paid within fifteen days of submission of all required proof of delivery documents. Carrier will provide to Contractor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document containing the same information, or, in the case of contract carriage, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, Contractor may view, during normal business hours, a copy of any actual document underlying the computer-generated document. Contractor may also examine copies of Carrier's tariff or other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract, only those portions of the contract containing the same information that would appear on a rated freight bill will be disclosed. Carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation at Carrier's discretion.

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumber, in which case carrier shall pay in full such lumber services upon submission of evidence sufficient to Carrier verifying such changes.

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Toll Charges.** All tolls are the responsibility of Contractor.

- 7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.
- 8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.
- 9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.
- 10. Trailer Damage.** Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage to Carrier's trailer resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 11. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 12. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to the Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.
- 13. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.
- 14. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.
- 15. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.
- 16. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.
- 17. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

- 18. Deposits Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of Five Thousand Dollars (\$5,000.00) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct \$.05 per mile from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches \$5,000.00 per tractor, and thereafter as necessary to replenish said Escrow Account.

#### VI. MISCELLANEOUS

- 19. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier may have to pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment and Receipt in this agreement. In the event of the termination of a tractor in which Contractor has asked Carrier to

install a Qualcomm/Omnitrac unit, Carrier shall have the option to deduct from the Escrow Account and from Contractor's weekly Settlement Sheet all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitrac Communication System. In addition, Contractor agrees to return the Carrier-provided Qualcomm/Omnitrac Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein. In the event Contractor fails to return the system, Contractor shall reimburse Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, the full cost of the system, Four Thousand Dollars (\$4,000.00). In the event that the Carrier-provided Qualcomm/Omnitrac Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Contractor will be liable for any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitrac Communication System. In the event Contractor has other tractors under contract with Carrier, Contractor agrees to allow Carrier to deduct an amount of Fifty Dollars (\$50.00) per week until either all damages to the system have been paid, or if the system was not returned, the full cost of the system has been received by the Carrier. Notwithstanding, Contractor will remain liable for any uncollected damage or costs associated with the use and possession of the Qualcomm/Omnitrac Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitrac Communication System.

**20. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**21. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**22. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Based on value of the tractor.  
DEDUCTIBLE: \$5,000

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

- 5) Principal Address \_\_\_\_\_  
of Corporation

- 6) Registered Agent

\_\_\_\_\_  
(Name and Address)

- 7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

**CONTRACTOR OPERATING AGREEMENT**

**UNIT#**

This Contractor Operating Agreement (the "Agreement") is made and entered into between **Celadon Trucking Services, Inc.**, a New Jersey corporation, whose headquarters and principal place of business is located at 9503 E. 33<sup>rd</sup> St. Indianapolis IN, 46235-4207 (the "Carrier") and \_\_\_\_\_ (the "Contractor"), whose principal address is \_\_\_\_\_

**ARTICLE I: PARTIES**

**1.01 The Carrier.** Carrier operates as a common and contract carrier by motor vehicle in interstate, intrastate and foreign commerce, pursuant to authority of the Federal Motor Carrier Safety Administration ("FMCSA") of the U.S. Department of Transportation (the "DOT"), and other regulatory agencies having jurisdiction over Carrier's operations and from time to time has occasion to use in its service vehicular equipment owned and operated by others.

**1.02 The Contractor.** Contractor is an owner or lessee of vehicular equipment who provides skilled, professional hauling and related services for and in behalf of such common and contract motor carriers.

**1.03 The Agreement.** Carrier desires to utilize Contractor's vehicular equipment and services in its business; and Contractor desires to operate its vehicular equipment and to provide services under contract to Carrier in connection with Carrier's business.

This Agreement is therefore made for those purposes and is entered into in accordance with 49 C.F.R. Part 376 (the "FMCSA Leasing Regulations").

**ARTICLE II: EQUIPMENT AND PERSONNEL**

**2.01 The Equipment.** Contractor agrees to furnish to Carrier for Carrier's exclusive use, possession and control to the extent required by the FMCSA Leasing Regulations, the highway tractor(s) (the "Equipment") described and identified in the Schedule of Equipment and Receipt that is included in and made a part of this Agreement. The foregoing declarations are made solely to conform to FMCSA regulations and shall not be used for any other purposes, including any attempt to classify Contractor or Contractor's drivers as an employee of Carrier. Nothing in the provisions required by 49 C.F.R. § 376.12(c)(1) is intended to affect whether Contractor or Contractor's drivers are an independent contractor or an employee of Carrier. As provided by 49 C.F.R. § 376.12(c)(4), "an independent contractor relationship may exist when a carrier complies with 49 U.S.C. § 14102 and attendant administrative requirements." Because of the limitations contained in 49 C.F.R. § 376.12(c)(1) and (2), contractor may operate the Equipment for another motor carrier but must contact Carrier to insure decals, DOT authority and MC number are not used for another carrier, in accordance with Section 2.02 below. Contractor further agrees to supply and furnish all other equipment and accessories required for and necessary to the use of the Equipment.

**2.02 Trip Leasing.** Subcontracting or trip leasing with other carrier is subject to applicable laws and regulations. Carrier assumes no responsibility for collection of freight charges or payment of compensation related to any such trip lease or subcontractor operations. During the term of any trip lease or subcontracted operations, Contractor will remove or cover up all of Carrier's identification on the Equipment and will display instead the trip lease carrier's identification. Carrier will have no responsibility for, and Contractor will fully defend, indemnify and hold Carrier harmless from, and claim damage, fine, penalty, allegation or loss arising from the operation of the Equipment during any such subcontract or trip lease.

**2.03 Drivers and Other Personnel.** Contractor will furnish drivers and other personnel as required from time to time to operate the Equipment and to load and unload the freight transported by the Equipment. Each driver furnished by Contractor will at all times meet and satisfy the minimum driver qualification and compliance standards established by: (i) the DOT; (ii) other regulatory bodies having jurisdiction over Carrier's operations; and (iii) by Carrier itself (such drivers referred to herein as "qualified drivers"). Upon request of Carrier, Contractor will immediately substitute a qualified driver for any person who fails to meet or satisfy such minimum qualifications and compliance standards or who fails to comply with Carrier's operating policies and procedures.

**2.04 Passengers.** Contractor agrees that no passengers will be permitted in the Equipment other than in accordance with regulations of the DOT and by other applicable laws and regulations, and in no event without the prior written approval of Carrier as to each passenger in the form of a Passenger Authorization and Release of Liability form. Carrier reserves the right to charge Contractor a service fee for granting such approval.

**2.05 Contraband.** Contractor agrees that while operating the Equipment, neither Contractor, Contractor's drivers or other personnel, or Contractor's employees, agents or invitees will have possession of, or place in, or carry on the Equipment, any controlled substance, alcoholic beverage, prescription drug for which the possessor does not have a valid prescription, explosive, firearm, or any other item or property prohibited by law or by regulation.

**ARTICLE III: FREIGHT**

**3.01 Utilization of the Equipment.** Carrier will endeavor to utilize the Equipment for the purpose of transporting freight which is, from time to time, offered to Carrier for transportation by its customers. Carrier will attempt to make reasonable regular use of the Equipment during the term of this Agreement, provided that Contractor makes the Equipment available for dispatch in accordance with Carrier's operating policies and procedures (although nothing in this Agreement will be deemed to require Contractor to do so). Contractor agrees that Carrier has no express or implied obligation to make any minimum use of the Equipment or to utilize the Equipment at any particular time or location. Contractor agrees that if in Contractor's opinion, Carrier fails or refuses to make sufficient use of the Equipment to enable Contractor to meet its financial obligations or to otherwise allow Contractor to receive the amount of revenue desired or anticipated by Contractor under this Agreement, Contractor's sole and exclusive remedy is to terminate this Agreement in accordance with the provisions of Section 11.01 hereof.

**3.02 Satisfactory Transportation of Freight.** Contractor agrees to perform its services hereunder in such manner as to satisfy the requirements of Carrier's customers including, but not limited to, complying with pickup and/or delivery dates and times specified by Carrier's customers and by complying with Carrier's operating policies and procedures. Contractor agrees it will indemnify and hold Carrier harmless from any liability, claim, loss, cost or expense, including reasonable attorneys' fees, incurred by or asserted against Carrier in connection with late pickup and/or delivery of shipments accepted by Contractor where such late pickup and/or delivery is the result of the gross negligence or the intentional or deliberate act of Contractor, its drivers or other agents or employees.

**3.03 Failure to Complete Transportation.** If Contractor fails, for any reason, to complete the transportation of any freight accepted by it for transportation, abandons such freight, or otherwise subjects Carrier to actual or threatened liability to any third party for failure to deliver such freight, Carrier will have the right to complete delivery of such freight, using the Equipment or substitute equipment, and Contractor agrees to indemnify, reimburse and hold Carrier harmless from the entire amount of any such liability, claim, loss, cost or expense, including reasonable attorneys' fees, resulting from such failure to complete the transportation of such freight.

**ARTICLE IV: TRAILERS**

**4.01 Furnishing of Trailers.** Carrier will allow Contractor to use trailers owned or leased by Carrier (the "Trailers") for the sole purpose of permitting Contractor to transport freight hereunder or while deadheading without freight at Carrier's request. In the event Contractor uses the Trailers for any other purpose, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier in enjoining or attempting to enjoin such unauthorized use and/or in acquiring or attempting to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation identified as Appendix I hereto (the "Schedule of Compensation").

**4.02 Surrender of Possession.** Contractor will relinquish possession of Trailers in accordance with Carrier's instructions or otherwise upon demand by Carrier. Upon termination of this Agreement, Contractor will return all Trailers in its custody or under its control to Carrier's nearest terminal location or such other location as Carrier reasonably may designate. In the event Contractor fails to relinquish possession or return Trailers as provided herein, Carrier will be entitled, in addition to any other remedies: (i) to recover from Contractor all expenses and costs, including reasonable attorneys' fees, incurred by Carrier to acquire possession of such Trailer(s); and (ii) to liquidated damages (and not as a penalty) for the loss of use of such Trailer(s) in the amount or amounts set forth in the Schedule of Compensation.

**4.03 Maintenance.** Subject to the provisions of Section 4.04 hereof, Carrier is responsible for and will pay for repair and maintenance for the Trailers, including, but not limited to, lubrication, brake repair, and required periodic safety inspection(s). In the event Contractor incurs any such costs in behalf of Carrier, Carrier will reimburse Contractor for such amounts, provided Contractor provides documentation of such costs as required by Carrier and otherwise complies with Carrier's reimbursement policies and procedures.

**4.04 Loss or Damage.** Contractor is responsible for, and agrees to reimburse Carrier, subject to the limit(s) (if any) stated in Addendum I, for amount of any loss or damage to Carrier's Trailers, including without limitation, tire repair or replacement, resulting from the negligence or the deliberate or intentional acts of Contractor, its drivers or other employees or agents; provided Contractor will not be responsible for any loss or damage to Trailers which Carrier determines in good faith, pursuant to Carrier's accident review policies and procedures, to be the result of a non-preventable accident. In the alternative, Contractor may elect and authorize Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Addendum II, Optional Insurance Program, Physical Damage Insurance on Contractor's behalf and on the behalf of its drivers or other employees, or agents, in which case, Contractor will only be responsible to reimburse Carrier for amounts not received by Carrier out of the proceeds of such insurance.

**ARTICLE V: COMPENSATION**

**5.01 Statement of Account.** Carrier will issue Settlement Statements on a periodic basis to Contractor, or to Contractor's designated agent, setting forth amounts due and owing or paid by Carrier to Contractor and amounts due and owing or paid by Contractor to Carrier. When issued by Carrier, such Settlement Statements will be conclusively presumed to have been received by Contractor at the time of issuance. Objections to entries, omissions or balances on Settlement Statements will be made in writing by Contractor, or by Contractor's designated agent, and received by Carrier within one-hundred and eighty (180) days from the date a Settlement Statement to which an objection relates is issued by Carrier. Unless such written objection is made, Settlement Statements and all entries, or balances shown thereon, will be deemed conclusive and binding on Contractor.

**5.02 Schedule of Compensation.** Carrier will compensate Contractor for the performance of services hereunder according to the Schedule of Compensation identified as Addendum I to this Agreement, subject to Carrier's rights, including, but not limited to, provided in Sections 5.05 and 10.04 hereof, to deduct or offset certain costs and charges.

**5.03 Payment.** Carrier will pay Contractor for the performance of services hereunder within fifteen (15) days after submission by Contractor to Carrier of the following accurately prepared and fully completed documents with respect to such services: DOT required logs, bills of lading, and any other document(s) which may be required for Carrier to bill and secure payment from its customers of charges applicable to such shipments. For expenses reimbursable by Carrier, Contractor will provide properly completed receipts or other evidence reflecting payment by Contractor and otherwise will comply with Carrier's reimbursement policies and procedures. Carrier will not be required to compensate or reimburse Contractor with respect to any shipment for which Carrier has not received all collections made by or required to be submitted by Contractor to Carrier as provided in Section 5.04 hereof. Carrier will not be required to compensate Contractor for shipments or for the performance of other services pursuant to this Agreement when the shipments or other services are evidenced by inaccurate or incomplete documents unless and until such time as the documents are corrected and/or completed. Carrier will not be obligated to compensate Contractor for amounts reflected on any documents that Contractor alters after obtaining authorizing signatures.

**5.04 Collections and Shipping Documents.** On shipments entrusted to Contractor for which all or partial payment is due upon delivery, Contractor agrees to collect all charges owed by consignors/consignees and to hold such collections in trust for Carrier. Contractor further agrees that no part of such collections are, or will ever become, the property of Contractor. Contractor agrees to prepare and/or present all necessary shipping documents with the signatures of shippers, consignors, and consignees and to transmit same with appropriate signatures and any applicable collections to Carrier, or its designees, on or before the next business day following final delivery of the shipment.

**5.05 Charges to Contractor.** Contractor agrees that Contractor's compensation for services hereunder may be withheld by Carrier for payment of, and Carrier may set off against Contractor's compensation for:

- (a) All charges and deductions authorized by Contractor under this Agreement, and other liabilities of Contractor under this Agreement including, but not limited to, charges, deductions and liabilities referred to in the following sections hereof: 2.04, 3.02, 3.03, 4.01, 4.02, 5.03, 6.02, 8.01, 8.02, 8.03, 8.05, 8.06, 9.01, 9.03, 9.04, 10.01, 10.04, 12.01, 12.02; or in the Schedule of Compensation, or the optional insurance program.
- (b) All fuel purchases made by Contractor using Carrier's fuel card at the price charged to Contractor by the fuel vendor at the point of purchase. Contractor shall receive a point of sale pump price (which should be reflected in Contractor's pump receipt). The actual amount deducted from Contractor's settlement, if less than the price charged at the point of purchase, is the result of a volume-based discount and/or rebate Carrier has negotiated with the fuel vendor or fuel card issuer. Carrier shall retain 100% of volume-based discounts and/or rebates not reflected in Contractor's settlement, if available to Carrier.
- (c) Any other charges or expenses incurred or paid by Carrier on behalf of Contractor.
- (d) Advances and other extensions of credit by Carrier to Contractor, such as transactions in which the driver requested borrowed funds at the initial purchase point. i.e. fuel, payroll advances, lumpers, etc.
- (e) Any amounts required from time to time to maintain the Escrow Account at the prescribed level as provided in Article X hereof.
- (f) Charge backs such as transactions in which the funds were paid at point of purchase by Celadon and which are now being deducted from the driver's settlement, i.e. tolls, trailer wash, air/cuff lock & key, etc.
- (g) Recurring Deductions, such as weekly "bills" that a driver is charged, i.e. truck payment, insurance, Qualcomm fee, etc. .
- (h) Any other amounts or charges or expenses authorized by Contractor in writing or mutually agreed to in writing by Contractor and Carrier.

**5.06 Documentation of Charges.** Carrier will furnish Contractor with copies of documents which are necessary to determine the validity of any charge for items initially paid for by Carrier but ultimately deducted from Contractor's compensation.

**5.07 Freight Bills, Tariffs and Contracts.** As required by the FMCSA Leasing Regulations, the Contractor shall have the right during normal business hours to examine copies of the tariffs, or in the case of contract carriage, other documents from which the carrier rates and charges are computed, that govern transportation services in connection with the Contractor's performance of services pursuant to this Agreement. Contractor rights extend only to those portions of such documents as contain the same information as would appear on a rated freight bill.

#### ARTICLE VI: LICENSES AND PERMITS

**6.01 Licenses and Permits Required.** Contractor agrees that Carrier may require that the Equipment be licensed and permitted to operate in the 48 contiguous United States and such other places as Carrier may designate from time to time.

**6.02 Payment for Licenses, Permits, Plates and Heavy Use Tax.** Carrier will provide all identification, permits and decals, required by any governmental agencies to be affixed to equipment. Carrier shall also prepare and file the heavy highway use tax form on Contractor's equipment. Contractor will maintain at Contractor's expense the continued cost of all identification, permits and decals. Contractor shall also pay the Carrier the heavy use tax. Contractor will pay Carrier the amount of \$40 per week to cover the permits, decals, plates and heavy use tax, and Carrier will deduct such amount from Contractor's weekly settlement.

**6.03 Disposition of Licenses and Permits.** Contractor agrees that all identification, decals and permits procured by Carrier in Contractor's behalf for the Equipment subject to this Agreement will remain the property of the Carrier, and upon termination of this Agreement, Contractor will return such identification, decals and permits to Carrier within five (5) days after such termination.

#### ARTICLE VII: IDENTIFICATION OF EQUIPMENT

**7.01 Identification Markings.** Contractor will display, and keep displayed on the Equipment, such vehicle identification information as is required by the FMCSA or by any other federal or state regulatory agency.

**7.02 Removal of Identification Markings.** Immediately upon termination of this Agreement, Contractor will remove all identification markings, placards, decals, or other devices which would in any way indicate the Equipment is being operated by or on behalf of Carrier; and Contractor will, within five (5) days after termination of this Agreement, at its own expense, return all such identification markings by certified mail to Carrier's place of business in Indianapolis, Indiana, or by personal delivery to any of Carrier's offices or terminals. If such markings have been lost or stolen, then a letter certifying their removal will suffice. Carrier may withhold any amounts then due Contractor until Contractor has satisfied the aforesaid requirements.

#### ARTICLE VIII: INSURANCE AND LIABILITY

**8.01 Obligations of Carrier.** In accordance with the FMCSA Leasing Regulations, Carrier shall maintain insurance coverage of the protection of the public in accordance with 49 U.S.C. § 13906 with respect to operations on behalf of Carrier hereunder. Carrier will self-insure and/or insure, at its expense, against public liability, property damage and cargo exposures in amounts not less than required by applicable state and federal laws and regulations.

**8.02 Contractor's Responsibility for Third-Party Liability.** With respect to third-party bodily injury or property loss and damage claims (other than cargo loss and damage) while Contractor equipment is not specifically performing a trip for the Carrier, Contractor will reimburse Carrier for sums paid for such bodily injury, or lost, damaged or destroyed property as set forth in the Schedule of Compensation.

**8.03 Contractor's Responsibility For Cargo Loss or Damage.** With respect to cargo loss and damage claims, Contractor will reimburse Carrier for sums paid to shippers for missing, lost, damaged or destroyed cargo as set forth in the Schedule of Compensation.

**8.04 Explanation of Deductions.** Carrier will provide Contractor with a written explanation and itemization of any deductions Carrier makes from Contractor's compensation for property loss and damage and cargo loss and damage by virtue of Sections 8.02 and 8.03 above.

**8.05 Non-Trucking Liability Insurance.** Contractor will obtain, maintain, and keep in force at its expense, or if Carrier consents, Contractor authorizes Carrier to purchase at such cost to Contractor as may be set forth from time to time in the Schedule of Compensation, a Non-Trucking Liability Insurance policy for public liability and property damage expenses with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence. The insurance policy and coverage will apply to the use and operation by Contractor of the Equipment during any such

time that the Contractor is not using the equipment to perform a trip specifically assigned to the Contractor by the Carrier. In the event the insurance is obtained directly by Contractor, such coverage will be at least as comprehensive as the coverage Carrier will facilitate for Contractor pursuant to this Agreement, and Contractor will provide Carrier with evidence of such insurance in a form satisfactory to Carrier. The policy will be primary and non-contributory with respect to any coverage maintained by Carrier and shall name Carrier as an additional insured.

#### **8.06 Workers' Compensation/Occupational Accident Insurance.**

- (a) Workers' Compensation Insurance. Contractor will, to the extent required or permitted by law, assume responsibility for and purchase, maintain and keep in force workers' compensation insurance (or, if Contractor prefers, occupational accident insurance coverage for only Contractor individually where both State law allows and Carrier approves), at Contractor's expense, for Contractor's own benefit (if Contractor is a natural person), and for the benefit of drivers, helpers and any other persons required or permitted to be principally covered under the workers' compensation law of the State in which Contractor is domiciled, in such scope, amount, and form of coverage as is required by the State's law. If Contractor is domiciled in any of the four monopolistic States (North Dakota, Ohio, Washington, and Wyoming), Contractor shall have State-fund coverage. As evidence of Contractor's workers' compensation insurance coverage, Contractor will provide Carrier with evidence of said insurance in a form satisfactory to Carrier before operating the Equipment under this Agreement.
- (b) Occupational Accident Insurance. Contractor may, as an alternative to obtaining workers' compensation insurance, obtain and maintain an occupational accident insurance policy that either includes an endorsement, or is accompanied by a separate policy, under which an admitted insurer agrees to provide indemnification of workers' compensation benefits and expenses payable by or on behalf of Carrier and that becomes effective for a claim alleging employee status. Contractor may elect this alternative **ONLY IF:**
- (i) Contractor is a sole proprietorship, the sole "owner" (as that term is defined in 49 C.F.R. § 376.2(d)) of the Equipment, and the sole driver of the Equipment;
  - (ii) The State in which the work is principally localized is not Colorado, Massachusetts, Nevada, New Hampshire, New Jersey, New York, or North Carolina (Contractor is required to maintain statutory workers' compensation insurance coverage in any of these States);
  - (iii) The occupational accident insurance is no less comprehensive than the coverage Carrier may facilitate on Contractor's behalf if Contractor so chooses, and such facilitation is offered, in Addendum II; and
  - (iv) Carrier approves the occupational accident insurance coverage.
- (c) State-Specific Insurance Provisions.
- (i) If domiciled in Kansas or Mississippi, Contractor must provide evidence of either workers' compensation insurance coverage or occupational accident insurance coverage (in Mississippi of at least \$1 million) if Contractor is the sole "owner" (as defined) and driver of the Equipment; or workers' compensation insurance coverage if Contractor is not the sole "owner" (as defined) and sole driver of the Equipment.
  - (ii) If any of Contractor's Owner-drivers is domiciled in Texas and does not wish to be covered himself/herself, or to have Contractor's employees covered, by workers' compensation insurance, Contractor shall sign and submit to Carrier a Texas Department of Insurance, Workers' Compensation Division ("DWC") DWC Form-82 (Rev. 10/05), check-marking the option of "Agreement to Require Owner Operator to Act as Employer." Carrier shall retain the original of the completed form.
  - (iii) If Contractor is domiciled in Utah and is the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide Carrier with evidence of occupational accident insurance coverage and a copy of a valid Workers' Compensation Coverage Waiver issued by the Utah Labor Commission. If Contractor is domiciled in Utah and is not the sole "owner" (as defined) and sole driver of the Equipment, Contractor shall provide evidence of workers' compensation insurance coverage on both Contractor (unless Contractor has provided Carrier with a copy of a valid waiver) and those of Contractor's drivers, employees, agents, and other persons required to be principally covered under the worker's compensation law of Utah.
- (d) Availability Of Insurance Facilitated By Carrier. Contractor may, if Contractor so chooses by initialing one or more boxes in Addendum II, authorize Carrier to facilitate, on Contractor's behalf, certain insurance coverages required or made optional by this Agreement. If Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then Carrier is authorized but not required to obtain the insurance at Contractor's expense and deduct amounts reflecting all of Carrier's expense in obtaining and administering the coverage. Contractor recognizes that Carrier is not in the business of selling insurance, and

any insurance coverage requested by Contractor from Carrier is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter.

**8.07 Certificates or Policies of Insurance.** In the event Contractor purchases any insurance coverage from or through Carrier, Carrier will provide Contractor with a certificate of insurance for each such policy, which certificate will include, where applicable, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, and the deductible amount for each type of coverage. In addition, Carrier will provide a copy of the insurance policy to Contractor upon Contractor's request.

**8.08 Changes in Cost or Other Details of Coverages.** If Carrier is facilitating any insurance coverages for Contractor pursuant to Sections 8.05 of 8.06 above and the cost to Contractor for, or other details of, a coverage changes from the information listed in Addendum II, Contractor shall be so notified by personal delivery, fax, or other written notice. In any event, Contractor shall not be subject to any such change until twenty (20) days after the notice, unless Contractor signs an addendum making changes to the cost or other details of facilitated insurance coverages, in which case the changes described in the addendum will go into effect as the Effective Date stated in the addendum. Contractor's failure, by the end of twenty (20) days after such notice, to notify Carrier of any objection to the change shall constitute Contractor's express consent and authorization to Carrier to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 20-day period. The modified amounts shall replace and supersede those shown in Addendum II. If Contractor fails to notify Carrier of any objection within the 20-day period – or if Contractor notifies Carrier of Contractor's objection within the 20-day period and Contractor and Carrier are then unable to resolve the matter to their mutual satisfaction – Contractor and Carrier shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

#### ARTICLE IX: CONTRACTOR'S RESPONSIBILITIES

**9.01 Regulatory Requirements.** Contractor will, and will ensure that each driver providing services under this Agreement will comply with all applicable laws and regulations, and orders issued thereunder, governing the operation, inspection, and maintenance of Equipment and with Carrier's procedures required for compliance therewith. As required by Carrier, for vehicles less than three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every six (6) months. For vehicles over three (3) years old, Contractor is required to have a satisfactory DOT inspection done on the Equipment by an authorized facility every three (3) months. Additionally, all such vehicles are required to go through the company safety lanes upon arrival at any Carrier facility. Such inspections are in addition to any other inspections required under federal regulations and the terms of this Agreement, and all costs of such inspections shall be borne by the Contractor. Contractor shall provide copies of such inspections to Carrier immediately after completion. Contractor will prepare and file with Carrier such logs, mileage reports, fuel receipts, maintenance and inspection records, and other documents, and notify Carrier immediately of accidents, all in such manner and at such time as will enable Contractor and Carrier to comply fully with all laws and regulations and orders respecting same. Contractor and its drivers shall cooperate fully with Carrier with respect to any legal action, regulatory hearing or other similar proceeding arising from the operation of the Equipment, the relationships created by this Agreement, or the services performed hereunder. Contractor shall provide Carrier with any assistance as may be necessary for Carrier or Carrier's representatives or insurers to investigate, settle or litigate any accident, claim or potential claim by or against Carrier.

**9.02 Determination of Means of Performance.** In performing services subject to this Agreement, Contractor will, to the extent permitted by law, and subject to the other requirements of this Agreement, direct the operation of the Equipment in all respects and will determine the methods, means, and manner of performance of services hereunder including, but not limited to, choice of routes, points of maintenance, repair, fueling and servicing of Equipment, and rest stops. In addition thereto, Contractor has and will retain, to the extent permitted by law and subject to the other requirements of this Agreement, sole and complete responsibility for:

- (a) Hiring, paying, setting the wages, hours and working conditions for, adjusting the grievances of, supervising, training, disciplining, discharging, and otherwise fulfilling all of the legal obligations of an employer, including but not limited to Social Security obligations, income tax obligations, and unemployment compensation obligations, for all drivers and other personnel necessary for or utilized by Contractor pursuant to its performance under this Agreement.
- (b) Selecting, purchasing, insuring, financing, repairing and maintaining the Equipment.
- (c) Paying all operating costs and expenses incidental to the operation of the Equipment including, but not limited to fuel, fines, taxes, including fuel taxes, empty mileage (see definition in Addendum I, I,1), detention, accessorial services, vehicle identification, insurance, oil, tires, repairs, licenses, plates, base plates, permits, highway, bridge, and ferry tolls, to the extent any such costs and expenses are not paid for, compensated for or furnished by Carrier pursuant to this Agreement; provided, that as required by the FMCSA Leasing Regulations, and except when the violation results from the acts or

omissions of Contractor, Carrier will assume the risks and costs of fines for overweight and oversized trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of Contractor's control, and for improperly permitted over-dimension and over-weight loads. Any such fines paid by Contractor will be reimbursed by Carrier to Contractor. However, failure of Contractor to weigh a pre-loaded trailer according to Carrier's policies and procedures will constitute an act or omission of the Contractor for purposes of this section.

- (d) Loading and unloading freight onto and from trailers as required by Carrier and/or its customers for the transportation of shipments entrusted to Contractor. Compensation for loading and unloading services by Contractor are included in Contractor's mileage compensation unless otherwise specified in the Schedule of Compensation.
- (e) Assuring that the Equipment, the Contractor, and Contractor's drivers, other employees and agents maintain a professional appearance when being utilized or when performing services for Carrier hereunder.

**9.03 Fuel Taxes.** For the purpose of computing and paying all state fuel taxes owed for the equipment, Carrier shall issue Contractors a fuel card to be used on all fuel purchases and Carrier will report and pay all such taxes. If Contractor or its drivers fail to use Carrier's fuel card, Contractor shall be responsible for providing Carrier with an accurate accounting of all fuel purchases and miles traveled for purposes of computing fuel tax liability and Contractor will provide all original fuel receipts. Contractor's failure to comply with the obligations herein will result in Contractor being solely liable for reporting and paying all such taxes in which case, Contractor will hold harmless and indemnify Carrier with respect to any such tax liability. Contractor further acknowledges and agrees that Carrier is solely entitled to any rebate, refund or other amounts provided to Carrier by the fuel vendor notwithstanding Contractor's entitlement to any discount provided by the vendor at the point of purchase.

**9.04 Highway Use Tax.** Contractor is responsible for all highway use taxes arising out of or based upon operation of the Equipment and will, at Carrier's request, provide Carrier with proof of payment in such form as Carrier reasonably may require; provided, that Carrier may, in its discretion, pay such highway use taxes in Contractor's behalf, in which event Contractor will reimburse Carrier for the total amount of such payments as determined and reported by the Carrier.

#### **ARTICLE X: ESCROW ACCOUNT**

**10.01 Maintenance and Owings Escrow Account.** Contractor will deposit and maintain with Carrier, at such times and in such manner as set forth in the Schedule of Compensation, a maintenance and owings escrow account ("Escrow Account") in the amount of Five Thousand Dollars (\$5,000.00) for each tractor described and identified in the Schedule of Equipment and Receipt hereto. Carrier will have the right from time to time, in its discretion, to apply all or any portion of Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.02 Interest.** Carrier will pay interest on Contractor's Escrow Account on a quarterly basis at a rate equal to the average yield of 91 day, 13-week U.S. Treasury bills as established by the weekly auction of the Department of Treasury. For the purpose of calculating the balance of the Escrow Account on which interest will be paid, Carrier may deduct a sum equal to the average advance made to Contractor during the period of time for which interest is paid.

**10.03 Accounting.** Carrier will provide Contractor with an accounting of any transactions involving the Escrow Account by either: (i) clearly indicating on Contractor's Settlement Statement(s) the amount and description of any deduction or addition made to the Escrow Account; or (ii) providing a separate monthly accounting to the Contractor of any transactions involving the Escrow Account. Contractor will have the right to demand an accounting of the Escrow Account at any time.

**10.04 Application of Escrow Account.** Carrier will have the right from time to time, in its discretion, to apply all or any portion of Contractor's Escrow Account to the payment of any charges or indebtedness as provided in Section 5.05 hereof.

**10.05 Disposition at Termination.** At such time as accounts are settled between Contractor and Carrier upon termination of this Agreement, the Escrow Account will be applied to reduce any indebtedness of Contractor to Carrier as described in Section 5.05 hereof. In the event that Contractor is indebted to Carrier in an amount greater than that held by Carrier in the Escrow Account, Contractor's indebtedness will be reduced by the amount in the Escrow Account and Contractor will remain liable to Carrier for any remaining indebtedness. Any excess amount remaining in the Escrow Account will be remitted to Contractor upon Contractor's fulfillment of the requirements of Section 7.02 hereof. In the event Contractor is a party to two or more contractor operating agreements with Carrier, similar to this Agreement, Carrier may deduct from any of the Escrow Accounts maintained pursuant to such agreements any sum due to Carrier in connection with Contractor's operations under any such agreements.

**10.06 Return of Escrow Account.** In any event, as required by the FMCSA Leasing Regulations, Carrier is required to remit to Contractor the balance, if any, of the Escrow Account after application of the aforesaid provisions of this Article within forty-five (45) days of termination of this Agreement; and at that time Carrier will provide Contractor with a final accounting of all transactions involving the Escrow Account.

#### **ARTICLE XI: TERM OF AGREEMENT**

**11.01 Commencement and Termination.** This Agreement is effective on the date and at the time when it is countersigned by Carrier's representative at Indianapolis, Indiana, and will continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Carrier reserves the right, prior to countersigning this Agreement, to inspect the Equipment to determine if it meets Carrier's equipment specifications, including specifications for fifth-wheel height. If Carrier determines in its discretion that the Equipment does not meet its specifications, Carrier need not countersign or otherwise enter into this Agreement with Contractor.

**11.02 Termination or Suspension for Breach.** Notwithstanding the provisions of Section 11.01 hereof, in the event Contractor commits a breach of any term of this Agreement, Carrier shall have the right immediately to terminate or indefinitely suspend this Agreement by verbal or written notice to Contractor. Such suspension is effective notwithstanding the failure of Contractor to remove any signs, placards, licenses or permits from the Equipment as required hereunder.

**11.03 Automatic Termination.** Contractor agrees that operation of the Equipment in violation of any applicable federal, state or local law or regulation voids this Agreement immediately without notice and thereafter operation of the Equipment constitutes operations of Contractor only, and not of Carrier.

#### **ARTICLE XII: MISCELLANEOUS**

**12.01 Indemnification.** In addition to all other indemnification obligations of Contractor to Carrier hereunder, Contractor agrees to indemnify and hold Carrier harmless from and against all liability, claims and costs, including reasonable attorneys' fees, incurred by Carrier as a result of any acts or omissions of Contractor, its drivers or other employees or agents which are in violation of Contractor's obligations hereunder or in violation of any applicable laws or regulations.

**12.02 Relationship of Parties.** The parties intend to create, and hereby do create by this Agreement, the relationship of Carrier and independent contractor and not an employer-employee, partnership, or joint venture relationship. Neither Contractor, its driver or other employees or agents are to be considered employees of Carrier at any time, under any circumstances, for any purpose. Neither party is the agent of the other and neither party will have the right to bind the other by contract or otherwise except as specifically provided herein. Contractor agrees to defend, indemnify and hold harmless Carrier from any direct or indirect costs (including reasonable attorney fees), fines, penalties, damages or amounts arising from or related to any claim, suit, action or audit brought by Contractor, any employee or driver of Contractor, or any union or state or federal agency arising out of the provision of services by Contractor or any employee, agent, contractor or driver of Contractor. Contractor assumes full control and responsibility for the selection, training, hiring, disciplining, discharging, setting of hours, wages, salaries, providing unemployment insurance, state and federal taxes, fringe benefits, workers' compensation and all other matters relating to or arising out of Contractor's use or employment of any individual. Contractor shall be solely responsible for complying with any and all state and federal laws, rules, and regulations that may be applicable to any individual used by Contractor in the provision of services hereunder.

**12.03 Absence of Conditions.** The parties acknowledge and agree that Contractor is not required to purchase or rent any products, equipment, or services from Carrier as a condition of entering into this Agreement.

**12.04 Prior Agreements.** This Agreement supersedes and replaces any other like agreement(s) regarding the Equipment heretofore entered into by the parties.

**12.05 Incorporation of Driver Application Form.** The request for qualification or driver application form submitted to Carrier by Contractor, as required by regulations of the DOT in connection with this Agreement, is hereby incorporated into and by this reference made a part of this Agreement. Carrier will have the right at any time to terminate this Agreement immediately upon written or verbal notice to Contractor in the event that any information contained in said request for qualification or driver application form is discovered to be materially false, inaccurate, or misleading.

**12.06 Severability.** If any part, term or provision of this Agreement is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of this Agreement will remain in full force and effect, or such remainder may be declared null and void, at the option of Carrier.

**12.07 Governing Law.** This Agreement is made in and will be construed under and in accordance with the laws of the State of Indiana without respect to the choice of law rules thereof.

**12.08 Non-waiver of Remedies.** No failure on the part of either party to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other or further exercise of any right hereunder. The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

**12.09 Notices.** All notices required or permitted to be given in writing under this Agreement will be considered as having been given by one party to the other upon the mailing of same to the last known address of the recipient.

**12.10 Multiple Copies.** This Agreement will be signed in multiple copies, each copy to be considered as an original. Carrier and Contractor will each retain one signed copy and Contractor will carry one signed copy in the Equipment during the term hereof.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Indianapolis, Indiana, on the date and at the time indicated below as part of Carrier's counter-signature.

**CONTRACTOR:**

**CARRIER:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./p.m.

**SCHEDULE OF EQUIPMENT AND RECEIPT**

DESCRIPTION OF EQUIPMENT FOR:

Company Name: \_\_\_\_\_

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

City, ST, Zipp: \_\_\_\_\_

Unit # \_\_\_\_\_

Year: \_\_\_\_\_

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Motor OR SERIAL #: \_\_\_\_\_

LICENSE: \_\_\_\_\_

---

**RECEIPT BY CARRIER:**

The undersigned CARRIER hereby acknowledges the receipt of the above described equipment from

CONTRACTOR this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

**CELADON TRUCKING SERVICES, INC.**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

---

**RECEIPT BY CONTRACTOR:**

The undersigned CONTRACTOR hereby acknowledges the receipt of the equipment above described from CARRIER in acceptable condition.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

**(To be signed at termination)**

I have personally removed from the unit, all Celadon Trucking Services, Inc., Logos, I.D., Fuel Stickers, etc. as required by D.O.T. regulations.

Company name: \_\_\_\_\_

Contractor sign \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM I  
SCHEDULE OF COMPENSATION  
CONTRACTED OPERATORS**

This Addendum I, Schedule of Compensation, supplements the terms of the Contractor Operating Agreement (the "Agreement") entered into by the undersigned Carrier and Contractor, and is intended to constitute and shall constitute a part of the Agreement.

Contractor will be compensated by Carrier for Contractor's services under the Agreement as follows:

**I. DEFINITIONS AND REFERENCES**

**1). Definitions.** For purposes hereof: (i) "loaded miles" means miles traversed by the Equipment when transporting cargo pursuant to Carrier's dispatch and authorization; (ii) "dispatched empty miles" (or "authorized deadhead miles") means miles traversed by the Equipment when not transporting cargo pursuant to Carrier's dispatch and authorization, and (iii) "empty miles" means miles traversed by the Equipment under all other circumstances.

**2. Mileage References and Determination.** For purposes of computing compensation hereunder, "mileage" or "miles" will be determined by reference to version 18 of Rand McNally' MileMaker® computerized mileage guide, calculated by Shortest Miles, which Carrier shall make available for viewing and printing of particular Contractor-requested point-to-point mileage calculations at any Carrier terminal during normal business hours.. Compensation for loaded miles will be made on the basis of miles, as so determined from the point at which a shipment originates, via any intermediate points where authorized pick-ups or deliveries are made, to the point at which the shipment is delivered, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by Contractor are more or less than the miles as so determined. Compensation for dispatched empty miles (or authorized deadhead miles) will be made on the basis of miles, as so determined, between the beginning and ending points of the empty trip authorized by the carrier, as calculated by Shortest Miles in MileMaker®, even if the actual miles traveled over the route(s) selected by the Contractor are more or less than the miles as so determined.

**II. COMPENSATION**

**3. Compensation.** Carrier will pay Contractor the greater of a percentage of the gross revenue, including linehaul charges, accessorials and fuel surcharge, or \$1.00 per mile, on a per-trip basis as outlined below. Said mileage rate is an "all-in rate" and Contractor WILL NOT be paid any accessorials or fuel surcharge. Further, the \$1.00 per mile minimum shall be compared only to on-time services on the pickup and delivery, and not to late pickup or delivery:

70% gross trip revenue for on time service on the pickup and delivery  
60% gross trip revenue if not on time for pickup and delivery

In the event Contractor is asked by Carrier to move equipment while not under dispatch, Contractor shall be paid for designated empty miles (equipment moves only, not deadhead miles under load dispatch) at the rate of \$.94 per mile without fuel surcharge.

Contractor shall be paid within fifteen days of submission of all required proof of delivery documents. Carrier will provide to Contractor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document containing the same information, or, in the case of contract carriage, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, Contractor may view, during normal business hours, a copy of any actual document underlying the computer-generated document. Contractor may also examine copies of Carrier's tariff or other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract, only those portions of the contract containing the same information that would appear on a rated freight bill will be disclosed. Carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation at Carrier's discretion.

**III. ADDITIONAL ACCESSORIAL COMPENSATION**

**4) Load/Unload Compensation.** Carrier will pay Contractor Forty Dollars (\$40.00) for the physical loading of a trailer by Contractor and Forty Dollars (\$40.00) for the physical unloading of a trailer by Contractor, provided that as a condition of such payment Carrier reserves the right to require Contractor to meet Carrier's documentation procedures for evidencing loading and/or unloading. Contractor may in the alternative utilize the services of a lumper, in which case carrier shall pay in full such lumper services upon submission of evidence sufficient to Carrier verifying such changes.

**IV. FEES, CHARGE-BACKS AND OTHER DEDUCTIONS TO COMPENSATION**

**6. Toll Charges.** All tolls are the responsibility of Contractor.

- 7. Passenger Authorization.** Pursuant to Section 2.04 of the Agreement, Carrier reserves the right to charge Contractor a service fee of Thirty Dollars (\$30.00) per month, or a portion thereof, for the time period covered by any written authorization granted by Carrier, to Contractor, to carry a passenger in Equipment.
- 8. Unauthorized Use of Trailers.** Pursuant to Section 4.01(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day of unauthorized use of a trailer by Contractor.
- 9. Failure to Return Trailers.** Pursuant to Section 4.02(ii) of the Agreement, Carrier reserves the right to charge Contractor One Hundred Dollars (\$100.00) per day for each day Contractor fails to relinquish possession of a trailer in accordance with Carrier's instructions.
- 10. Trailer Damage.** Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for damage to Carrier's trailer resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 11. Cargo Loss or Damage.** Pursuant to Section 8.03 of the Agreement, Contractor agrees to reimburse Carrier in an amount up to One Thousand Dollars (\$1,000.00) per occurrence for sums paid by Carrier for any cargo loss or damage resulting from an act or omission of Contractor, its drivers or other employees or agents.
- 12. Other Deductions.** Carrier may make deductions on Contractor's Settlement Statements or to the Escrow Account as provided by Section 5.05 and 10.04 of the Agreement.
- 13. Non-Trucking Liability Insurance.** Pursuant to Section 8.05 of this Agreement, if Carrier consents to purchase Non-Trucking Liability Insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.
- 14. Workers Compensation/Occupational Accident Insurance.** Pursuant to Section 8.06 of this Agreement, if Contractor elects and authorizes Carrier to purchase occupational accident insurance for Contractor, Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from Contractor's compensation on weekly Settlement Statements.
- 15. Physical Damage Insurance.** Pursuant to Section 4.04 of this Agreement, if Contractor elects and authorizes Carrier to purchase and provide Physical Damage Insurance for Contractor, its drivers, or other employees or agents. Contractor authorizes Carrier to deduct or otherwise recover amounts reflecting all of Carrier's expense and cost in obtaining and administering the coverage as documented in Addendum II. Such amounts will be deducted from the Contractor's compensation on weekly Settlement Statements.
- 16. Advances.** Carrier may, in its sole discretion, advance monies to Contractor from time to time upon request by Contractor in which case Contractor shall be responsible for the full amount of any such advance. If the advance is in the amount of \$500 or more, Carrier may require that Contractor sign a promissory note in favor of Carrier.
- 17. Fuel Purchases.** If Contractor uses a Carrier-provided fuel card to purchase fuel, Contractor shall be responsible, in addition to the amount charged at the point of purchase, to an administrative fee of \$3.50 per transaction if the purchase is made at a Carrier designated fuel location, or \$7.00 per transaction if the purchase is not made at a Carrier designated fuel location.

#### V. ESCROW

- 18. Deposits Into Escrow.** Pursuant to Section 10.01 of this Agreement, Contractor and Carrier agree that Contractor will deposit and maintain with Carrier an Escrow Account in the amount of Five Thousand Dollars (\$5,000.00) per each tractor identified on the Schedule of Equipment and Receipt in the Agreement. Carrier will deduct \$.05 per mile from amounts due Contractor on Contractor's weekly Settlement Statements until such time as the initial deposit reaches \$5,000.00 per tractor, and thereafter as necessary to replenish said Escrow Account.

#### VI. MISCELLANEOUS

- 19. Qualcomm.** Carrier is utilizing Qualcomm/Omnitracs Communication Systems. Contractor is free to provide, at Contractor's cost and expense, a communications system compatible with Carrier's system, in which case, Contractor will bear the cost of all associated installation, integration related expenses and service fees. Any Contractor-provided system must meet the following technical requirements: Must be compatible with an Omnitrac MCP 200 system including the Display Interface Unit (DIU), the Mobile Application Server (MAS), the Wireless Interface Box (WIB) and run on Qtracs Version 7.0. Alternatively, Contractor may obtain a Qualcomm unit from Carrier, in which case it is agreed that the Carrier may have to pay the installation fee to an authorized vendor of Carrier's choice, to have the equipment installed on the Contractor's tractor as listed on the Schedule of Equipment

and Receipt in this agreement. In the event of the termination of a tractor in which Contractor has asked Carrier to install a Qualcomm/Omnitracs unit, Carrier shall have the option to deduct from the Escrow Account and from Contractor's weekly Settlement Sheet all costs incurred for the removal and, if necessary, repair of the Qualcomm/Omnitracs Communication System. In addition, Contractor agrees to return the Carrier-provided Qualcomm/Omnitracs Communication System in good working order to the Carrier within seven (7) days following the termination of the tractor as listed on the Schedule of Equipment herein. In the event Contractor fails to return the system, Contractor shall reimburse Carrier or the Carrier may deduct from the Contractor's per mile Weekly Settlement Statement or Escrow account, the full cost of the system, Four Thousand Dollars (\$4,000.00). In the event that the Carrier-provided Qualcomm/Omnitracs Communication System is not removed by a qualified vendor as stipulated by the Carrier, the Contractor will be liable for any cost incurred to re-certify or repair the Carrier-provided Qualcomm/Omnitracs Communication System. In the event Contractor has other tractors under contract with Carrier, Contractor agrees to allow Carrier to deduct an amount of Fifty Dollars (\$50.00) per week until either all damages to the system have been paid, or if the system was not returned, the full cost of the system has been received by the Carrier. Notwithstanding, Contractor will remain liable for any uncollected damage or costs associated with the use and possession of the Qualcomm/Omnitracs Communication System. Contractor shall have no rights, title or ownership of the Carrier-provided Qualcomm/Omnitracs Communication System.

**20. Contradictions.** To the extent there are any contradictions or inconsistencies between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

**21. Prior Agreements.** This Addendum will supersede and replace any other like addenda regarding the Equipment which were heretofore entered into between the parties.

**22. Countersignature.** This Addendum will not become effective until countersigned by Carrier's representative at Indianapolis, Indiana.

**IN WITNESS WHEREOF,** the parties have entered into the Addendum at Indianapolis, Indiana, on the date indicated below.

**Contractor:**

**Carrier:**

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM II  
OPTIONAL INSURANCE PROGRAM**

The following described insurance coverages which Carrier will facilitate on behalf of Contractor. These programs are offered through Carrier's insurance agents. Carrier has agreed to assist the agents by forwarding the Contractor's insurance payments to the insurance carrier. Contractor acknowledges and agrees that Carrier is not in the business of selling or underwriting insurance coverage.

Although the types of coverages described in I, II, and III (below) are required by the lease agreement Carrier and the Contractor, the specific insurance programs are optional. Contractors may provide evidence of insurance coverage that is coverages Carrier will facilitate at Contractor's request.

**ELECTION BY CONTRACTOR AND CERTIFICATE OF INSURANCE**

The undersigned Contractor hereby acknowledges this notice of the OPTIONAL Insurance Programs described below and makes the following election: **(Coverage selected must be initialed).**

The Contractor elects coverage of:

TYPE OF COVERAGE: **Occupational Accident Insurance** (if Carrier approves) \_\_\_\_\_  
NAME OF INSURER: One Beacon  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: None.  
COST \$42 per week (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Non-Trucking Liability Insurance** \_\_\_\_\_  
NAME OF INSURER: Hudson Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
LIMIT OF LIABILITY: \$1,000,000  
DEDUCTIBLE: \$1,000  
COST \$8.08 per week per unit of Equipment (incl. admin. fee to Carrier).

TYPE OF COVERAGE: **Physical Damage on Tractor** \_\_\_\_\_  
NAME OF INSURER: Transportation Services Insurance Company  
POLICY NUMBER: \_\_\_\_\_  
DECLARED VALUE: \_\_\_\_\_  
LIMIT OF LIABILITY: Based on value of the tractor.  
DEDUCTIBLE: \$5,000

The Contractor elects NOT to participate in the above described Insurance Program(s) and agrees to provide Carrier with evidence of acceptable alternative insurance coverage.

Initial when applicable: **X** \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ADDENDUM III  
COVENANT NOT TO COMPETE**

This Addendum supplements the terms of the Contractor Operating Agreement entered into by and between the undersigned Contractor and Celadon Trucking Services, Inc. ("Carrier") and is intended to and hereby is incorporated fully into the Agreement.

**WHEREAS**, over the course of many years Carrier has, in its capacity as a common and contract carrier by motor vehicle, developed customers, customer list and goodwill, through Carrier's diligence, capital investment and superior service; and

**WHEREAS**, Carrier has a substantial interest in protecting and preserving its customers, customer lists and goodwill for its own use and benefit; and

**WHEREAS**, by virtue of the Agreement, Contractor may or will have access to Carrier's customers, customer lists and goodwill; and

**WHEREAS**, by virtue of that access, both parties agree it would be unfair to Carrier and detrimental to Carrier's protectable interests for Contractor to convert or attempt to convert Carrier's customer list and goodwill to Contractor's own private use and benefit during the term of the Agreement and for a reasonable time after termination of the agreement.

**NOW THEREFORE**, in consideration of the covenants and other benefits, privileges and obligation under the Agreement, it is agreed as follows:

Except as otherwise provided by the Agreement or prohibited by federal, state, or local law (e.g., 820 Ill. Comp. Stat. § 405/212.1(a)(2)), Contractor will not during the term of Agreement and for a period of one (1) year immediately following termination of the agreement in any capacity, directly or indirectly, on Contractor's behalf or on behalf of any other person or firm, solicit or attempt to solicit the motor common and/or contract carrier transportation business of Carrier's customers or provide or attempt to provide motor common and/or contract carrier transportation services for Carrier's customer. For the purpose of this provision, "Carrier's customers" means: (i) during the term of the Agreement, any person or firm who, during any immediately preceding one (1) year period, has shipped freight by Carrier in Carrier's motor common and/or contract carrier service, and (ii) after termination of freight by Carrier in Carrier's motor common and/or contract carrier service.

Contractor further agrees that compliance with this provision will be enforceable by Carrier in law or in equity, including but not limited to specific performance and/or injunction. Any violation of this provision by Contractor will render all obligations by Carrier under the Agreement at Carrier's Discretion, null and void.

**CONTRACTOR:**

**ACCEPTED FOR CARRIER:**

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date of Carrier's  
Countersignature: \_\_\_\_\_

**ADDENDUM IV  
INFORMATION REQUEST FORM: CORPORATIONS & PARTNERSHIPS**

Subject to required approvals, Celadon Trucking Services, Inc. (Celadon) will in its discretion enter into a Contractor Operating Agreement with a corporation or partnership formed by a contractor (or so-called owner/operator). A contractor desiring to contract as a corporation or partnership must furnish the information requested below prior to the time he/she signs initial contract documents or new contract documents with Celadon.

**I. General Information** (For Contractor)

- 1) Name: \_\_\_\_\_
- 2) Address: \_\_\_\_\_  
\_\_\_\_\_
- 3) Telephone: \_\_\_\_\_

**II. Corporations** (complete only if you desire to contract with Celadon as a corporation)

- 1) Name of Corporation: \_\_\_\_\_
- 2) State of Incorporation: \_\_\_\_\_
- 3) Date of Incorporation: \_\_\_\_\_
- 4) Officers of Corporation:

Name	Title	Address
_____	_____	_____
_____	_____	_____

- 5) Principal Address \_\_\_\_\_  
of Corporation

- 6) Registered Agent

\_\_\_\_\_  
(Name and Address)

- 7) Name of Officer Who Will Sign Contracts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 8) Federal I.D. No. \_\_\_\_\_  
(obtain from Internal Revenue Service)

9) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor corporation, proof that the corporation is currently in existence and in good standing must be furnished. This can be done by obtaining from the state (in which the Articles of Incorporation were filed), one of the following:

- A) A copy of the Certificate of Incorporation (if corporation is less than one (1) year old).
- B) A copy of a Certificate of Good Standing.
- C) Other written evidence, such as a letter from the Secretary of State, indicating the corporation is in existence.

**III. Partnerships** (complete only if you desire to contract with Celadon as a partnership)

1) Name of Partnership: \_\_\_\_\_

2) Date of Partnership Agreement: \_\_\_\_\_

3) List Partner Names and Percentage Interest:

Name	Address	SS Number	% of Partnership Interest
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Principal Business Address of Partnership: \_\_\_\_\_

5) Federal I.D. Number: \_\_\_\_\_  
(if applicable, obtain from Internal Revenue Service)

6) Required Documents:

**IMPORTANT**--Before Celadon will contract with a contractor partnership, a copy of the written partnership agreement must be submitted for review.

**NOTE:** All information and documentation requested above must be completed and submitted for review before Celadon will enter into a contractor operator agreement with contractor.

**I HEREBY REQUEST APPROVAL TO CONTRACT WITH CELADON TRUCKING SERVICES, INC. AS A CORPORATION OR PARTNERSHIP, AS SPECIFIED HEREIN AND I ACKNOWLEDGE AND UNDERSTAND THE CONDITION ATTACHED HERETO.**

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

Print Name: \_\_\_\_\_

APPROVAL BY CELADON: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ADDENDUM V  
EQUIPMENT LEASE CHARGES**

If the undersigned Contractor ("Contractor") has elected to lease a vehicle from the third-party Lessor identified below to use as the Equipment under the Contractor Operating Agreement ("Agreement") Contractor has entered into with Celadon Trucking Services, Inc. ("Carrier"), and if Contractor wishes to have Carrier, and Carrier is willing to, deduct the vehicle rent and related payments from Contractor's settlement compensation or otherwise recover them, the parties agree as follows:

**1. EQUIPMENT LEASE CHARGES AUTHORIZATION.** Contractor authorizes and directs Carrier to deduct from Contractor's compensation and to send a bank check by U.S. First Class Mail or electronically remit to Lessor at the address below –

Name: \_\_\_\_\_ ("Lessor")  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Tel. \_\_\_\_\_

\$ \_\_\_\_\_ per week, or such different amount as may, from time to time, be communicated in writing by Lessor to Carrier pursuant to the equipment lease entered into between Contractor and Lessor. **CARRIER SHALL HAVE NO OBLIGATION TO ADVANCE FUNDS TO COVER THE ABOVE AMOUNTS, OR ANY PORTIONS THEREOF, IF INSUFFICIENT FUNDS ARE AVAILABLE FROM CONTRACTOR'S SETTLEMENT COMPENSATION AT THE TIME.**

**2. CONTRACTOR ACKNOWLEDGMENT. CONTRACTOR HEREBY ACKNOWLEDGES THAT VEHICLES SUITABLE FOR ITS PROVISION OF SERVICES UNDER THIS AGREEMENT ARE AVAILABLE FOR PURCHASE OR LEASE FROM NUMEROUS VENDORS OTHER THAN LESSOR, AND THAT CONTRACTOR IS NOT REQUIRED TO LEASE A VEHICLE FROM LESSOR, AS A CONDITION OF ENTERING INTO THE AGREEMENT WITH CARRIER.**

CONTRACTOR SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_