

**TITAN TRUCKS, INCORPORATED
P. O. BOX 1353
LEVELLAND, TX 79336**

INDEPENDENT CONTRACTOR EQUIPMENT PERCENTAGE LEASE AGREEMENT

HOPPER DIVISION

THIS AGREEMENT made and entered into the state of Texas, Hockley County, on this ____ day of _____, 20__, by and between **TITAN TRUCKS, INC.**, a Texas corporation, (hereinafter referred to as "Carrier") and _____ (hereinafter referred to as "Contractor").

TERMS AND CONDITIONS OF LEASE AGREEMENT:

- (1) PARTIES.** Carrier is a motor carrier authorized by the Department of Transportation to engage in the transportation of property, for hire, upon the public highways of the United States. Contractor is engaged in business as an independent contractor in connection with which it owns or has at its disposal the motor vehicle equipment described in **Equipment, Paragraph 2**. Carrier and Contractor desire to enter into this agreement under which Contractor will lease equipment with driver to Carrier for use in connection with its operations pursuant to the issued authority.

- (2) EQUIPMENT.** Contractor agrees that the lease is for the specific **Equipment** as described in **Paragraph 2**. Contractor agrees that the equipment, described below, is not subject to any other lease agreement. Furthermore, Contractor agrees to immediately amend the lease if there is a change to the specified equipment.

TRACTOR

Make/Model/Yr. _____ Tire Size _____
VIN Number _____
State of Registration _____
Titan Lease Number _____
Owner of Equipment _____

TRAILER

Make/Model _____ Tire Size _____
VIN Number _____
State of Registration _____
Trailer Number _____
Owner of Equipment _____

- (3) TERM.** Subject to the termination provision as Described in "**Termination**", **Paragraph 4**, this agreement shall be effective for a period of one (1) year from the signing date and shall automatically renew for a one-year period on each successive anniversary date unless notice of intent to terminate is given as set forth in **Paragraph 4**.

3.01 Carrier shall keep the original and Contractor shall place a copy of this agreement on the **Equipment** specified in **Paragraph 2** and shall keep one other copy.

- (4) TERMINATION.**

4.01 Without Cause. Either the Carrier or Contractor may terminate this agreement without cause by the giving of a written notice to the other.

4.02 For Cause. If either the Carrier or the Contractor violates any terms of this Agreement, then the other party will have the right to immediately terminate this agreement; but, Contractor agrees to complete the delivery of any freight loaded prior to termination. If Contractor fails to complete the delivery of any freight loaded prior to termination, Carrier may operate the **Equipment, Paragraph 2**, to deliver the freight loaded and charge Contractor any load completion expense.

4.03 Upon termination of the agreement, final settlement will be withheld until Contractor has delivered to Carrier any and all bills of lading and other shipping forms, licenses, registration plates, identifying lettering, permits, driver logs, mileage/fuel records, all documents obtained by or on behalf of Carrier, and the fifteen (15) day payment provision will not apply.

(5) DEDUCTIONS. Carrier may deduct from Contractor's compensation all amounts for which Contractor is financially obligated under this agreement and all amounts advanced by Carrier to or on behalf of Contractor or Contractor's driver. Upon request, Contractor will be provided those documents necessary to determine and compute such charges and deductions.

(6) INDEPENDENT CONTRACTOR STATUS. It is the intent that Contractor shall be an independent contractor, and at no time shall an employer-employee relationship be created between Carrier and Contractor and/or its employee(s) as a result of services performed by Contractor under this agreement.

6.01 Contractor agrees, as an independent contractor, during the term of this agreement to transport the shipments that Carrier shall offer, to furnish the **Equipment** as described in **Paragraph 2**, and driver, as described in **Exhibit "B"**, to perform all services required for transportation. Contractor agrees to perform this service in an efficient, competent, safe manner by operating with applicable rules and regulations of the U. S. Department of Transportation, Texas Department of Transportation, and all state and local laws, ordinances and regulations. Payments for any penalties, citations, fines, or out of service orders that result from Contractor's noncompliance with the above rules shall be the responsibility of the Contractor.

6.02 Contractor agrees that its driver(s) are experienced, properly licensed and qualified to operate the **Equipment** as described in **Paragraph 2**. Further, Contractor agrees that its driver(s) are familiar with and shall operate in accordance with the safety regulations of the Federal Motor Carrier Safety Administration. Contractor agrees to hold harmless and defend Carrier from any and all claims by Contractor and/or its employee(s) on account of wage, industrial accident or Worker's Compensation claims, withholding and employment taxes, or any other claim or action arising from Contractor's relationship with its employee(s).

(7) OPERATION. During the term of this lease, the Carrier shall have exclusive possession, control and use of the leased equipment. Contractor must accept loads as dispatched by Carrier; but is allowed to express to Carrier's dispatch the areas in which the Contractor prefers to operate. Carrier's dispatcher will try to accommodate these requests. Further, Contractor shall determine the routes of travel, points of stop for rest, service of its equipment, tools, permits of all types, ferries, empty mileage, detention, accessory services, control its employees including their wages, hours, and working conditions, and Federal highway use tax.

7.01 When a trailer is pre-loaded, sealed or the load is containerized, or when the trailer or loading is outside the Contractor's control, fines assessed against Contractor's equipment or operation shall be the responsibility of the Carrier.

(8) LETTERING. During the term of this agreement, Contractor's equipment will be identified by means of lettering placed on Contractor's equipment at Carrier's expense. Upon termination or cancellation of this agreement all services shall be immediately discontinued. However, upon request of Carrier, Contractor shall complete the delivery of any load that it may have in its possession. Further, upon termination or cancellation of this agreement, Contractor shall deliver to Carrier any and all equipment, papers, registrations, permits,

documents, and any other properties belonging to Carrier. Contractor shall provide to Carrier satisfactory proof that Carrier's related lettering have been permanently removed from Contractor's equipment. If Carrier's lettering is not removed from Contractor's equipment within a two (2) day period after termination or cancellation, Contractor shall pay Carrier the sum of Twenty-five (\$25.00) dollars per day until evidence of lettering removal is furnished by Contractor to Carrier. Contractor shall provide a written statement explaining the reason for the failure to remove the lettering. Until the lettering has been removed, Carrier may withhold final settlement payment.

8.01 It is the responsibility of Contractor to pay for expense of its personal lettering, and if Carrier pays this expense, said lettering shall be deducted from Contractor's settlement.

- (9) **CONTROLLED SUBSTANCE TESTS AND DOT PHYSICAL.** The Contractor and/or its employee shall have negative pre-employment controlled substance tests before operating Contractor's leased **Equipment** as described in **Paragraph 2**. Contractor and/or its employee must follow applicable rules and regulations of the U.S. Department of Transportation and Carrier policy. Further, Contractor understands that a positive test or refusal to test during the duration of this agreement, Carrier shall be entitled to immediate termination of this agreement. Contractor, at its own expense, shall be responsible for the expense of pre-employment controlled substance tests, random alcohol and/or controlled substance tests, any reasonable suspicion testing, and, if any, consortium annual enrollment fee. Carrier shall have the right to charge back the cost of these tests to the Contractor.

9.01 The Contractor and/or its employee shall furnish the Carrier with a valid DOT (long form) physical before operating Contractor's leased **Equipment** as described in **Paragraph 2**. Contractor, at its own expense, shall be responsible for the expense of the DOT physical. Carrier shall have the right to charge back the cost of the DOT physical to the Contractor.

- (10) **MAINTENANCE RESERVE ACCOUNT.** With respect to equipment maintenance, Contractor agrees to participate with Carrier's maintenance account program. Contractor agrees to a weekly deduction for the placement of funds into a maintenance reserve account for the purpose of expenses directly related to the repair, maintenance, upkeep, tires, and equipment purchase. Contractor's maintenance deposit shall be made available by the Carrier to pay direct to the vendor for repairs, maintenance, upkeep, tires, and equipment purchase. Contractor shall provide Carrier with an expense bill to withdraw funds from the maintenance reserve account. Further, Carrier shall provide a separate accounting on a monthly basis to Contractor of any transactions involving the maintenance reserve account. In addition, while the Contractor's funds are under the control of the Carrier, the Carrier shall pay interest on the maintenance reserve account on at least a quarterly basis. The interest rate shall be established per the FMCSR §376.12(k) (5). At the time of the return of the maintenance reserve fund, the Carrier may deduct monies for those obligations incurred by the Contractor which have been previously specified in the lease and shall provide a final accounting to the Contractor and shall return the fund balance to the Contractor no later than 45 days from the date of termination.

10.01 Contractor shall indicate its election to the maintenance reserve account by initialing on the appropriate election line.

_____ Elect to deduct fifty dollars (\$50) per week to be placed in the maintenance reserve account
_____ Elect to deduct one-hundred dollars (\$100) per week to be placed in the maintenance reserve account

- (11) **INSURANCE.** Consistent with applicable law, Carrier shall be responsible for and carry public liability insurance for the protection of the public pursuant to FHWA regulations under 49 USC 13906 covering the operation of the **Equipment, Paragraph 2** while under dispatch.

11.01 Carrier shall be responsible for and carry cargo insurance as required by law and the FHWA regulations for the protection of the public. In the event of any loss of or damage to cargo while under Contractor's control, including claims for shipment interruption and late delivery, Contractor shall be liable for the first one-thousand (\$1,000.00) dollars and will be deducted from Contractor's settlement check. However, Contractor agrees to hold harmless and defend Carrier from and against any and all claims, losses and/or

damages on account of any injury to or death of any person(s) caused by any manner with the operation equipment and against any all claims losses and/or damage to the shipments that re supplied under this agreement. Contractor may request Carrier to provide a written explanation and itemization of any cargo loss or damage deduction.

11.02 With respect to expense to protect the equipment or cargo, the costs of towing, storage, emergency repairs, or action necessary to protect the equipment or cargo shall be the responsibility of Contractor. If Carrier pays these expenses, they shall be deducted from Contractor's settlement.

11.03 Contractor shall maintain non-trucking liability insurance with respect to the operation of the **Equipment, Paragraph 2.** Contractor shall provide proof satisfactory to Carrier that Contractor has in force the above referenced insurance providing a minimum of \$1,000,000 combined single limit coverage for public liability and property damage claims. Contractor shall cause Carrier to be listed on the policy as an additional insured. If the Contractor fails to provide proper evidence of the purchase or certificate of insurance as described in this section, then Carrier is authorized, but is not required, to obtain such insurance at its expense and charge the Contractor its cost. Carrier is authorized to deduct the full amount of such cost of insurance from the Contractor's settlement check immediately following the payment or the obligation to pay such costs unless a different repayment schedule is agreed to by Carrier and Contractor. If the Carrier purchases insurance as provided in this section, then Carrier will provide the Contractor a Certificate of Insurance, the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to the Contractor and the deductible amount. Carrier will provide the Contractor a copy of the insurance policy upon request.

11.04 If Contractor elects to have Carrier acquire this insurance, Carrier is authorized to deduct the cost from Contractor's settlement. Contractor shall indicate its election by initialing on the appropriate election line.

Elect to participate in non-trucking liability insurance
 Decline settlement deduction for non-trucking liability insurance

(12) OCCUPATIONAL ACCIDENT DISABILITY INSURANCE. To fulfill its obligation under **Paragraph 6** as an Independent Contractor, Contractor shall maintain in force at all time proper Worker's Compensation insurance covering Contractor for its driver or an occupational accident policy. In addition, Contractor shall defend and indemnify Carrier with regard to claims brought against Carrier by or on behalf of contractor's employee(s) including, but not limited to, claims for personal injury, wages, benefits and other forms of compensation benefits, and employment discrimination including unlawful discharge and defamation.

12.01 With respect to occupational insurance, Carrier may assist Contractor in obtaining occupational accidental disability policy insurance coverage for any driver(s) or employee(s) employed by Contractor. Upon request from Contractor, Carrier will arrange for insurance in which Contractor may elect to participate. If Contractor elects to participate in this insurance, Carrier is authorized to deduct the cost from Contractor's settlement. Contractor shall indicate its election by initialing on the appropriate election line.

Elect to participate in the occupational insurance coverage
 Decline to participate in the insurance coverage

(13) EQUIPMENT, LOGS, MAINTENANCE, REPORTS, IFTA, TAXES, FUEL CARD, IRP BYPASS. Contractor agrees to maintain its equipment in proper working order, to be responsible for, furnish, and pay all necessary oil, fuel, tires, tubes, services, and repairs for the operation of the equipment. Contractor agrees to furnish reports to Carrier of all vehicle repairs, as well as fuel, mileage, driver daily logs, load sheets, maintenance, and accident as required by Federal, State and/or other governmental agencies. Further, Contractor agrees not to charge or attempt to charge or obtain credit through Carrier, directly or indirectly, for services or property from other parties.

13.01 With respect to driver logs, Contractor is responsible for maintaining driver logbooks within the hours of service rules and regulations of the FHWA and submitting all driver daily logs to the Carrier within 7 days.

13.02 With respect to maintenance, Contractor is responsible for maintaining and submitting Carriers vehicle maintenance report before the 10th of each calendar month.

13.03 With respect to load sheet, Contractor is responsible to submit a load sheet with the origin and destination ticket for each load supplied by Carrier. Load sheets shall be submitted to the Carrier once per week. Contractor's settlement shall be made as soon as possible and shall be made no later than fifteen days after receipt of accurately completed load documents. Contractor's settlement shall be mailed to the address listed on an Internal Revenue Service form W-9.

13.04 With respect to the IFTA program, Carrier will arrange for the fuel taxes and fuel tax reporting in which Contractor may elect to participate. Contractor shall indicate its election by initialing on the appropriate election line.

Elect to participate in Carrier's IFTA program
 Decline to participate in Carriers IFTA program

13.05 If Contractor elects to participate with Carriers IFTA program, Contractor understands that Carrier shall charge \$40.00 per month for maintaining the IFTA records. Further, Contractor understands that it is its responsibility for any and all fuel tax expense. Contractor agrees that Carrier shall deduct the fuel tax cost and the monthly \$40 dollar fee from a settlement(s) at the end of the calendar quarter.

13.06 With respect to extra taxes, Contractor agrees to accept full responsibility to pay for taxes as a result of ton/weight mile taxes assessed by the states of Kentucky, New Mexico and Oregon. Contractor agrees that Carrier shall deduct the cost of fuel and mileage reporting from a settlement at the end of the calendar quarter.

13.07 With respect to Carrier's fuel card, Contractor agrees to accept full responsibility for all purchases made as a result of the use of the fuel card. Contractor shall notify Carrier immediately by telephone of any lost or stolen card and shall be fully responsible for the unauthorized or fraudulent use thereof until such time as Carrier has received such notification from Contractor. Contractor shall be charged back for fuel cost and, if any, transaction fees when Contractor and/or its employee use the fuel card.

13.08 With respect to Carrier's IRP (base plate) program; Carrier will arrange for the base plate in which Contractor may elect to participate. Contractor shall indicate its election by initialing on the appropriate election line.

Elect to participate in Carrier's IRP (base plate) program
 Decline to participate in Carrier's IRP (base plate) program

13.09 If Contractor elects to participate with Carrier's base plate, Carrier is authorized to acquire and own the base plate. Carrier is authorized to deduct the cost from Contractor's settlement, which is at a \$50.00 per week rate to cover the base plate cost and the cost to re-license the equipment for each renewal year. Upon termination, Contractor shall deliver to Carrier the base plate and original Cab Card. If base plate and original Cab Card is not returned to Carrier within a two (2) day period after the notice of termination or cancellation, Contractor shall pay Carrier the sum of Twenty-five (\$25.00) dollars per day until the base plate and original Cab Card are returned to Carrier. Until the base plate and Cab Card have been received, Carrier may withhold final settlement payment. Further, any credit or refund shall be refunded to Contractor according to Carrier's refund schedule less any expense(s). Contractor agrees that Carrier may apply any and all excess accrued money from the Carrier base plate deduction to be applied to all expenses incurred under Paragraphs 5, 8, 9, 10, 11, 12, 13, 17, 18, and/or 19.

13.10 With respect to weight station by pass, Contractor may elect to participate and Carrier will arrange with "Pre-Pass" for the transponder weight station bypass system. The usage of toll roadway fee and toll fee bridge-way fees, ferry toll, tunnel toll, if any, and are the exclusive responsibility of Contractor. Further the contractor agrees to pay \$100.00 for the device. The \$100.00 will be deducted from the Contractors settlement payments in the amount of \$25.00 per week for a period of four weeks. The Carrier agrees to purchase the device from the Contractor upon de-lease if Contractor desires to return the device. The Contractor agrees to have deducted from their settlement \$15.49 per month as charged by "Pre-Pass" If 'Pre-Pass increases it's monthly fee for usage the Contractor agrees to pay such increase. Contractor shall indicate its election by initialing on the appropriate election line.

Elect participation in weight station by pass system and deduct cost from settlement
 Decline participation in weight station by pass system

- (14) **CONTRACTOR REVENUE.** Pursuant to the regulations, Carrier agrees to pay and Contractor agrees to accept payments for its service in accordance with “*Contractor Revenue Schedule*” described in **Exhibit “A”**, attached, subject any and all deductions and offsets provided within this agreement. Upon request, Contractor will be afforded copies of documents that will confirm the validity of the charges and deductions and may view, during normal business hours, a copy of the rated freight bills that reflect the revenue generated by the Contractor’s equipment.
- (15) **LOADING AND UNLOADING.** Contractor is responsible for all loading and unloading onto and from the leased equipment and for the compensation, if any, which is charged for this service. Contractor agrees that no additional compensation will be paid for loading and unloading except for unusually or extraordinary circumstances, to be determined by the Carrier. Further, Contractor is not authorized to exceed legal weight limits at any time.
- (16) **PRODUCT PURCHASE OR RENT.** Contractor shall not be required to purchase or rent any products, equipment, or services from Carrier as condition of entering into this agreement.
- (17) **PASSENGER.** Contractor understands and agrees Carrier does not provide authorization or allows any non-employee passenger or a hitchhiker to ride in the equipment described in paragraph 2 of this agreement. If the contractor allows a passenger to ride in the equipment described above. The contractor understands the lease agreement with Titan Trucks Inc will become void. Further if the Contractor has an accident causing injury to the unauthorized passenger in the vehicle the contractor agrees to hold harmless Titan Trucks Inc.
- (18) **COMCHEK.** Upon request by Contractor, Carrier may provide access to cash by way of Comchek. Contractor agrees to accept full responsibility for all purchases and fees. Contractor agrees to pay for any Comchek fees and Contractor agrees to pay Carrier five (5%) percent of the Comchek advance. Contractor agrees to a weekly three hundred (\$300.00) dollar limit. Contractor agrees that all advances shall be deducted from Contractor’s next settlement.
- (19) **COLLECTION.** In the event that payment(s) and/or money(s) due to Titan Trucks, Inc. are placed for collection, Contractor agrees to pay all reasonable fees and costs of collection.
- (20) **STATE OF TEXAS.** The law of the State of Texas shall govern this agreement and any suit is to be brought in Hockley County, Texas.
- (21) **AGREEMENT REPRESENTATIONS.** This agreement is the entire contact between the parties and there are no promises, understandings, representations, and/or warranties that are not contained within this agreement.
- (22) **AMENDMENT.** This agreement, in its entirety or in part, may be amended by Carrier by giving Contractor seven (7) days written notice.
- (23) **ACKNOWLEDGMENT.** By initialing each page and signing this agreement, the parties acknowledge that they have read, understand, and approve each of the above paragraphs including any and all Exhibits attached.

CARRIER:
Titan Trucks, Inc.

CONTRACTOR:

By: _____

By: _____

EXHIBIT "A"
CONTRACTOR REVENUE SCHEDULE

- (1)** As compensation for the equipment and driver's services provided by Contractor, Contractor shall be paid 70% of revenue earned by the specified equipment as listed in Paragraph 2 of this agreement.
- (2)** Further, if Contractor provides any transportation service to another carrier or company without authorization by Carrier, Carrier is entitled to 30% of gross receipt of any and all loads.
- (3)** Performance shall be deemed complete when Contractor submits to Carrier a signed and dated delivery receipt for the shipment, C.O.D. , shipper's bill of lading, and trip records.
- (4)** Carrier shall pay Contractor for each shipment transported as soon as possible and no later than fifteen days after Carrier receives completed load documentation at its office at 306 Austin Street, Levelland, Texas 79336.
- (5)** There shall be deducted from Contractor's compensation all expenses paid by Carrier which were the obligation of Contractor, including; but not limited to, the costs and expense described in this agreement.
- (6)** Contractor understands and agrees Carrier does not guarantee, warrant, and/or imply that Contractor will be profitable and/or meet any dollar/mile rate.

EXHIBIT "B"
CONTRACTOR'S DRIVER INFORMATION

- (1) Contractor agrees that the driver listed below will operate the equipment. Furthermore, Contractor agrees to immediately amend this exhibit if there is a change to the specified driver information.

DRIVER INFORMATION

Driver's Name _____.

Driver's License Number _____.

Date of Birth _____.

of Years Commercial Experience _____.

Social Security Number _____.

Mailing Address _____.

Phone Number _____.

Nearest Relative _____.

- (2) Contractor shall notify Carrier prior to a change in Contractor's driver. Further, Contractor understands that a new driver must be qualified by Carrier prior to operating with Carrier's dispatch.
- (3) Contractor and/or its driver shall telephone Carrier's dispatch before 9:30 am each day. Further, if Contractor and/or its driver fail to contact Carrier's dispatch by telephone within four (4) days, this agreement and liability and cargo insurance shall be canceled without notice.