

Carrier Name:	Tracy Trucking
Carrier Address:	1 Tracy Way Plaza, Springdale, AR 72764
Shipper Name:	Procter & Gamble
Shipper Address:	Procter & Gamble Plaza, Cincinnati, Ohio 45202 USA
Initial Term:	12 months
Payment Terms:	net 30
Standard Cargo Loss/Damage Limit:	\$150,000
High Value Cargo Loss/Damage Limit:	\$250,000
Insurance Requirements:	
Governing Law State:	State of Delaware

THIS MOTOR CARRIER SERVICES AGREEMENT (the “Agreement”), effective as of the date on which this Agreement first becomes fully executed (the “Effective Date”), is made and entered by and between the Carrier named above with offices at the address set forth above (“Carrier”) and the Shipper named above with offices at the address set forth above (“Shipper”) (collectively, the “Parties” and individually each, a “Party”).

WHEREAS, Carrier is licensed as a for-hire motor carrier by the Federal Motor Carrier Safety Administration (“FMCSA”), or by appropriate State agencies, and as a licensed motor carrier offers transportation of property; and

WHEREAS, Shipper has a need for transportation services offered by Carrier;

NOW THEREFORE, intending to be legally bound and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Carrier and Shipper agree as follows:

1. **TERM AND TERMINATION.**

- a. The term of this Agreement shall commence on the Effective Date listed above, shall remain in force for the initial term set forth above, and shall automatically renew for successive one year periods; provided, however, that either Party may terminate this Agreement at any time by giving thirty (30) days prior written notice.
- b. Either Party may additionally terminate this Agreement immediately upon written notice to the other of any of the following events:
 - i. The other Party breaches any covenant, obligation, condition, or requirement imposed upon it by this Agreement, and such breach continues for a period of thirty (30) calendar days after written notice thereof; or

- ii. The other Party becomes insolvent (including filing a petition for protection under any bankruptcy or receivership laws, making an assignment for the benefit of creditors, etc.), or becomes unable to pay its debts in a timely manner.
2. **CARRIER'S OPERATING AUTHORITY.** Carrier represents and warrants that it is duly and legally qualified to provide all transportation services contemplated herein, including that it will hold motor carrier authority issued by the FMCSA and that its drivers will be duly licensed for the provision of the services. Shipper shall provide to Carrier an accurate and complete description of all goods tendered for transportation. Shipper shall give Carrier written notice prior to requesting services for which special permits or authorities may be required, including, but not limited to, transportation of hazardous materials, alcoholic beverages, oversize or over-dimension loads, etc. In no event will Shipper tender for transportation by Carrier any product regulated as waste or otherwise intended for disposal. Shipper shall not tender to Carrier cargo moving to, from or within Mexico.
3. **BILLS OF LADING.** Each shipment hereunder shall be evidenced by a bill of lading. The bill of lading shall act as a receipt only and in no event shall any terms, conditions and provisions of the bill of lading, manifest or other form of receipt apply to transportation performed pursuant to this Agreement. Carrier's failure to issue a bill of lading shall not affect its liability hereunder. Carrier shall notify Shipper within a reasonable timeframe of any exception made on the bill of lading or delivery receipt.
4. **CARRIER'S OPERATIONS.** Unless otherwise stated in this Agreement, Carrier shall furnish all fuel, oil, tires and other parts, supplies and equipment required for the operation and maintenance of the tractors, trailers and other motor vehicles equipment furnished by Carrier for the performance of its obligations hereunder (collectively, the "Equipment"). All such Equipment will be clean, dry, leak proof and free from harmful or offensive odor. Shipper's commodities will not become adulterated or contaminated by virtue of being transported in Carrier's Equipment. As it relates to Shipper, Carrier shall have responsibility for the personnel used by Carrier in the operation of Carrier's Equipment and shall perform the motor carrier services hereunder as an independent contractor.
5. **FREIGHT CHARGES AND PAYMENTS.**
 - a. Rates and charges applicable to Carrier's services will be agreed in writing by the parties, including via electronic communications.
 - b. Payment shall be made by Shipper in accordance with the payment terms set forth on the first page of this Agreement, measured from the date of Carrier's invoice, and in the event the payment is not made within such payment period, Shipper agrees that interest shall accrue daily and be payable to Carrier at the interest rate of twelve percent (12%) per annum, together with any and all collection costs, including attorney fees.
 - c. In no event will Carrier have any lien on, or otherwise fail or refuse to delivery, any cargo transported pursuant to this Agreement.
6. **FREIGHT LOSS, DAMAGE OR DELAY.**
 - a. Carrier shall be liable for cargo loss or damage, including cargo loss or damage caused by Carrier's failure to exercise reasonable dispatch, in accordance with the provisions of 49 USC 14706, which liability shall be limited to the lesser of the full value of the landed cost of the goods or the "Standard Cargo Loss/Damage Limit" set forth on the first page.
 - b. In the event Shipper wishes to declare a higher value of liability in excess of the Standard Cargo Loss/Damage Limit per truckload with respect to any shipment subject to this Agreement, Shipper must make such request to Carrier in writing at least seventy-two (72) hours prior to the scheduled pick-up which request is not valid unless agreed upon in writing by an officer of

Carrier. If such request is accepted by Carrier in a signed writing, and Shipper pays additional freight charges applicable thereto, then Carrier will be liable for the full value declared by Shipper, but such liability shall in no event exceed the lesser of the "High Value Cargo Loss/Damage Limit" set forth above or the full landed cost to repair or replace the goods and cover transportation costs, whichever is less.

- c. The filing, processing and disposition of all cargo claims shall be governed by 49 C.F.R. Part 370. Carrier shall have no liability with respect to cargo loss or damage unless Shipper shall submit to Carrier written notice of any cargo claim, for loss, damage or delay, within nine (9) months of the delivery date of the shipment or, if no delivery, the date delivery would have been reasonably expected. Any proceeding related to any such cargo claim must be filed no later than two (2) years from the date of denial of all or any part of such claim, or Carrier shall be relieved of any liability with respect to any such claim.
 - d. The foregoing notwithstanding, Carrier will not be liable for cargo loss, damage or delay occurring or arising in Mexico and if it is unclear whether such a claim arose in Mexico there will be a rebuttable presumption that loss, damage or delay arose in Mexico unless rebutted by Shipper by clear and convincing evidence.
 - e. In no event will Carrier be responsible for any chargebacks or other penalties or assessments imposed by the consignor or consignee with respect to late deliveries.
 - f. Carrier's sole liability, and the claimant's sole recovery, with respect to cargo loss, damage or delay will be as set forth in this section and in no event will Carrier be liable under any other theory of law, nor to any party other than the actual beneficial owner of cargo, or its direct assignee, with respect to any claim arising from or related to loss or damage to cargo or delay. If Shipper is not the beneficial cargo owner, then Shipper warrants and represents that it is authorized to bind the beneficial cargo owner to this provision.
7. **INSURANCE.** At all times while this Agreement remains in effect, Carrier shall procure and maintain insurance coverage meeting or exceeding the requirements set forth in Exhibit A to this Agreement. Carrier shall furnish copies of certificates of insurance evidencing Carrier's compliance with these obligations upon request.
8. **INDEMNITY.** This section shall not apply to claims for cargo loss, damage, or delay.
- a. CARRIER SHALL INDEMNIFY AND HOLD SHIPPER AND ITS OFFICERS, DIRECTORS AND EMPLOYEES HARMLESS FROM AND AGAINST, AND PAY AND REIMBURSE, ANY AND ALL LIABILITIES, DAMAGES, FINES, PENALTIES, COSTS, CLAIMS, INTEREST AND EXPENSES (INCLUDING COST OF DEFENSE, SETTLEMENT AND REASONABLE ATTORNEY FEES, BUT EXCLUDING CLAIMS REGARDING LOSS, DAMAGE OR DELAY OF CARGO), TO THE PRORATED EXTENT CAUSED BY: (I) NEGLIGENCE OR WILLFUL MISCONDUCT OF CARRIER OR ITS EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS OR SUBCONTRACTORS; (II) VIOLATIONS OF ANY FEDERAL, PROVINCIAL, STATE OR LOCAL LAW, STATUTE, REGULATION OR RULE BY CARRIER OR ITS EMPLOYEES; OR (III) CARRIER'S BREACH OF THIS AGREEMENT.
 - b. SHIPPER SHALL INDEMNIFY AND HOLD CARRIER AND ITS OFFICERS, DIRECTORS AND EMPLOYEES HARMLESS FROM AND AGAINST, AND PAY AND REIMBURSE, ANY AND ALL LIABILITIES, DAMAGES, FINES, PENALTIES, COSTS, CLAIMS, INTEREST AND EXPENSES (INCLUDING COST OF DEFENSE, SETTLEMENT AND REASONABLE ATTORNEY FEES), TO THE PRORATED EXTENT CAUSED BY: (I) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SHIPPER OR ITS EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS OR SUBCONTRACTORS; (II)

VIOLATIONS OF ANY FEDERAL, PROVINCIAL, STATE OR LOCAL LAW, STATUTE, REGULATION OR RULE BY SHIPPER OR ITS EMPLOYEES; OR (III) SHIPPER'S BREACH OF THIS AGREEMENT.

- c. If either Party seeks indemnification hereunder (the "Indemnified Party") from the other Party (the "Indemnifying Party") with respect to a third party claim, the Indemnified Party shall notify the Indemnifying Party as promptly as practicable and give the Indemnifying Party an opportunity to defend the claim. The Indemnified Party will extend reasonable cooperation in connection with such defense. If the Indemnifying Party fails to assume the defense of the claim within a reasonable time, the Indemnified Party may assume the defense thereof, and the Indemnifying Party shall repay the Indemnified Party for all expenses incurred in connection with such defense (including reasonable attorney fees, settlement payments and payments of judgments) until the Indemnifying Party assumes such defense. The foregoing indemnity obligations will extend only to the losses actually suffered by the Indemnified Party. The Indemnifying Party will be subrogated to all rights of the Indemnified Party against any third party with respect to any claim for which indemnity was paid.
9. **COMPLIANCE WITH LAW.** Both Parties shall comply with all applicable federal, state or provincial laws, rules, or regulations applicable to their operations.
10. **HAZARDOUS MATERIALS.** Shipper shall comply with all laws, rules, regulations and ordinances regarding tender of hazardous materials, as that term is used and defined in the Hazardous Material Transportation Act, 49 U.S.C. § 50101 et seq., as well as any other hazardous or non-hazardous waste ("Hazardous Material"), including any and all applicable notices and/or manifests related to such Hazardous Material. Shipper further agrees that, prior to any shipment, it shall provide Carrier with written notice of the tender of Hazardous Material, including a current copy of the Material Safety Data Sheet for the Hazardous Materials to be tendered to Carrier for transportation. Carrier shall comply with any and all applicable laws, rules and regulations applicable to its transportation of Hazardous Materials, including, but not limited to, providing property licensed and trained drivers.
11. **SHIPMENTS CONTAINING FOOD.** Any food not requiring temperature control during transportation will be packaged prior to tender to the Carrier in such a manner as to ensure safe and sanitary handling during transportation without the need for any specialized handling procedures. With respect to food for which controlled temperature services have been requested, Shipper will provide the required temperature range, and Carrier will ensure that the cargo is transported in equipment maintained at all times within such temperature range. Shipper acknowledges that no additional handling or specialized services are required to ensure safety of food, and no additional handling or specialized services shall be provided. Any failure or alleged failure to comply with handling procedures established herein or otherwise applicable to any shipment, including, but not limited to, delivery without the original trailer seal intact, shall not, in and of itself, result in any presumption that a consignment is unsafe, contaminated, adulterated or otherwise unfit for its intended purpose.
12. **SUB-CONTRACT PROHIBITION.** Carrier agrees that all freight tendered to it by or on behalf of Shipper shall be transported on equipment operated only under the for-hire motor carrier authority of Carrier, and that Carrier shall not in any manner sub-contract, broker, or in any other form arrange for the freight to be transported by a third party without the prior written consent of Shipper. In the event that Carrier breaches this provision, Carrier shall remain directly liable to Shipper as if Carrier transported such freight under its own authority in accordance with this provision, and shall further hold harmless and indemnify Shipper from any and all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to the use of any subcontractor in violation of this provision regardless of whether arising from the conduct or omissions of Carrier, the subcontractor, or any other third party. If Carrier in any manner

sub-contracts, brokers, or otherwise arranges for freight to be transported by a third party, in addition to any other rights and remedies available to Shipper, Shipper may, in its sole discretion, pay the underlying carrier directly, which payment will relieve Shipper of any and all payment obligations to Carrier with respect to such load.

13. **LEGAL RESTRAINT OR FORCE MAJEURE.** In the event performance by one Party is affected or prohibited by any cause beyond the reasonable control of such Party, including without limitation, fire, labor strife, riot, war, weather conditions, acts of the public enemy, acts of God, acts of terrorism, local or national disruptions to transportation networks or operations, , fuel shortages, governmental regulations, or governmental request as requisition for national defense, or requests of governmental officials, and provided that the applicable cause is not attributable to the acts or omissions of such Party, and such Party is taking reasonable measures to remove or mitigate the effects of the applicable cause, then the running of all periods of time, and the performance of all obligations required herein shall be suspended during the continuance of such interruption. The affected Party shall promptly notify the other Party of such interruption. Notwithstanding the foregoing, if the affected party is Carrier, and the Force Majeure Event lasts longer than 15 calendar days, then Shipper is entitled to: (i) purchase Services from other suppliers, and Shipper's obligations will be reduced accordingly, or (ii) terminate this Agreement in whole or in part at any reasonable time thereafter with immediate effect and without any further obligation. Shipper's share of Carrier's total production capacity during the Force Majeure Event will be no less than Shipper's share of Carrier's total sales before the Force Majeure Event.
14. **WAIVER.** Shipper and Carrier expressly waive any and all rights and remedies under Part B of Subtitle IV to Title 49 of the U.S. Code to the extent that such rights and remedies conflict with this Agreement as allowed by 49 U.S.C. § 14101. Failure by either Party to insist upon the other Party's performance under this Agreement or to exercise any right or privilege herein shall not be a waiver of any of the rights or privileges provided for in this Agreement. WITH RESPECT TO ANY CLAIM ARISING FROM OR RELATED TO THIS AGREEMENT, OR OTHERWISE ARISING FROM THE RELATIONSHIP OF THE PARTIES, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SALES, OR DAMAGES DUE TO BUSINESS INTERRUPTION, REGARDLESS OF WHETHER THE PARTY TO BE CHARGED HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
15. **RELATIONSHIP OF THE PARTIES.** The parties intend to create, by this Agreement, a relationship of independent contractors and in no event will the parties be deemed to be involved in an employment relationship, joint venture, partnership, or agent-principal relationship. Neither Carrier nor Shipper intend to create an exclusive agreement hereunder. Carrier shall be free to service other customers during the term of this Agreement, and Shipper shall be free to utilize the services of other motor carriers during the term of this Agreement. Nothing hereunder shall be construed as obligating Carrier to accept shipments tendered by Shipper or to transport any minimum volume of shipments.
16. **GOVERNING LAW AND VENUE; WAIVER OF JURY TRIAL.** Except to the extent preempted by federal law that cannot be negotiated by contract, this Agreement, and any disputes arising therefrom, will be governed exclusively by, and construed and enforced exclusively in accordance with, the laws of the Governing Law State set forth on the first page of this Agreement without regard to or application of its conflicts-of-laws provisions. Any legal proceeding arising out or relating to this Agreement will be subject to the sole and exclusive jurisdiction of the federal and state courts located in the Governing Law State, to the exclusion of all other courts and venues, and each Party irrevocably consents to the sole and exclusive jurisdiction and venue of the federal and state courts located in the Governing Law State and waives any right to object thereto. EACH PARTY

IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY. Without waiving the foregoing, the Parties may agree to submit disputes to mediation or arbitration in the Governing Law State, in which case the mediator or arbitrator shall apply the laws of the Governing Law State.

17. **MISCELLANEOUS.** Neither Party may assign or transfer this Agreement, in whole or in part except to an affiliate as that term is defined in the antitrust laws of the United States, which assignment or transfer to an affiliate may be completed upon written notice to the other Party. This Agreement, including any supplements to or revisions thereof, exclusively states the rights and obligations of the Parties and supersedes all other agreements and/or tariffs published or provided by Carrier. If any portion of this Agreement is deemed unenforceable for any reason, such portion shall be severable and the remaining provisions of this Agreement shall continue in full force and effect. No rule of strict construction shall be applied against either Party. This Agreement may be executed in several counterparts and by each party on a separate counterpart, each of which, when so executed and delivered will be an original, but all of which together will constitute but one and the same instrument. A signature delivered as an imaged attachment to an e-mail message will be deemed equivalent to an original ink signature.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives.

Carrier	Shipper
By: _____	By: _____
Print Name: _____	Print Name: _____
Its: _____	Its: _____
Date: _____	Date: _____

**Exhibit A to Motor Carrier Services Agreement
Minimum Insurance Requirements**

See attached

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**Exhibit B to Motor Carrier Services Agreement
Freight Rates**

No.	Origin Code	Origin City	Destination Code	Destination City	Lane	Additional Service	Rate per mile	Miles
1	LADC	Los Angeles, CA	405	Memphis, TN	LADC to 405	Expedited	2.49	1,319
2	LADC	Los Angeles, CA	410	Atlanta, GA	LADC to 410	Expedited	3.94	2,490
3	LADC	Los Angeles, CA	412	Mobile, AL	LADC to 412	Expedited	3.34	2,578
4	LADC	Los Angeles, CA	427	Salt Lake City, UT	LADC to 427	Expedited	2.25	1,985
5	LADC	Los Angeles, CA	429	Boise, ID	LADC to 429	Expedited	3.10	2,258
6	LADC	Los Angeles, CA	434	Palm Springs, CA	LADC to 434	Expedited	2.35	1,305
7	LADC	Los Angeles, CA	435	Las Vegas, NV	LADC to 435	Expedited	1.89	2,470
8	LADC	Los Angeles, CA	440	Santa Fe, NM	LADC to 440	Expedited	3.04	2,395
9	LADC	Los Angeles, CA	443	Las Cruces, NM	LADC to 443	Expedited	2.40	1,401
10	LADC	Los Angeles, CA	445	El Paso, TX	LADC to 445	Expedited	1.89	1,984
11	LADC	Los Angeles, CA	468	San Diego, CA	LADC to 468	Expedited	3.40	400
12	LADC	Los Angeles, CA	SFDC	Springfield, OH	LADC to SFDC	Expedited	3.40	339
13	MDC	Midlothian, TX	409	Charlotte, NC	MDC to 409	Expedited	1.99	719
14	MDC	Midlothian, TX	411	Savannah, GA	MDC to 411	Expedited	4.05	1,110
15	MDC	Midlothian, TX	429	Boise, ID	MDC to 429	Expedited	1.77	606
16	MDC	Midlothian, TX	430	Spokane, WA	MDC to 430	Expedited	1.79	476
17	MDC	Midlothian, TX	440	Santa Fe, NM	MDC to 440	Expedited	1.83	471
18	SFDC	Springfield, OH	408	Fairfax, VA	SFDC to 408	Expedited	1.72	339
19	SFDC	Springfield, OH	427	Salt Lake City, UT	SFDC to 427	Expedited	2.00	2,246
20	SFDC	Springfield, OH	443	Las Cruces, NM	SFDC to 443	Expedited	2.49	1,642
21	SFDC	Springfield, OH	SFDC	Springfield, OH	SFDC to 471	Expedited	4.42	1,244

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