



## Carrier/Broker Agreement | Onboarding Form

### Checklist

- ✓ Company Information Sheet
- ✓ Carrier/Broker Agreement | Owner/Manager to initial each page and sign
- ✓ Copies of Authorities
  - USA Documentation: US DOT Documentation | MC Certificate
  - W9 Certificate (US carrier) | W-8BEN-E Certificate (CDN carrier)
  - National Safety Code (NSC) / CVOR / Safety Fitness (CDN carrier)
  - Proof of WorkSafe / WCB Coverage (CDN carrier)
- ✓ Insurance Certificate listing Xylan Logistics Ltd as Certificate Holder\*

### **Xylan Logistics Ltd.**

#1001, 4445 Lougheed Hwy | Burnaby BC Canada | V5C0E4

- \$100,000 Minimum Cargo Coverage
- \$1,000,000 Minimum Auto/3<sup>rd</sup> Party Coverage
- \$1,000,000 General Liability Coverage

All entities will be required to continue meeting the following Carrier Compliance Requirements:

- Safety Rating must be Satisfactory, Conditional or None
- All required Federal, State or Provincial Industry Operating Authorities must be active
- Active Insurance Policies

### **BROKERS**

All Brokerage Firms must maintain the same compliance requirements, as listed above, for the carriers that they use on all Xylan Logistics Ltd shipments.

**Please return all documentation to: Michelle Thomas | [michelle@xylanlogistics.com](mailto:michelle@xylanlogistics.com)**

\* An insurance request form is provided for your convenience.

~ This page does NOT need to be return in the packet ~



## Company Information Sheet

### Company Details

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

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

City: \_\_\_\_\_ Prov | State: \_\_\_\_\_ PC | Zip: \_\_\_\_\_

MC#: \_\_\_\_\_ DOT#: \_\_\_\_\_ SCAC#: \_\_\_\_\_

### Factoring Company

\*if your company does NOT use factoring services, please enter your Account Receivable contact info in this section

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

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

City: \_\_\_\_\_ Prov | State: \_\_\_\_\_ PC | Zip: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

### Contact Details

<i>Dispatch</i>	<i>Accounts Receivable</i>
Name: _____	_____
Phone: _____	_____
Fax: _____	_____
Email: _____	_____

### Equipment Details

#### Deck Configurations

Flatdecks   48'		Stepdecks   48'		Super B	
Flatdecks   53'		Stepdecks   53'		Dropdecks	

Please list other specialty decks: \_\_\_\_\_

#### Van Configurations

Tandem   48'		Tridem   48'/53'		Super B	
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#### Miscellaneous

Teams		Hazmat   TDG		Transload	
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## Company Information Sheet (Con't)

### Common Carrier Lanes

#### Canada

BC		MB		NB		NL		NU	
AB		ON		PE		YT			
SK		QC		NS		NT			

*Services Carrier is able to provide to/from/within Canada:*

OTR		Air		TDG		Transload	
Rail		Ocean		Heavy Haul		Warehouse	

#### USA

AL		ID		MI		NY		TN	
AK		IL		MN		NC		TX	
AZ		IN		MS		ND		UT	
AR		IA		MO		OH		VT	
CA		KS		MT		OK		VA	
CO		KY		NE		OR		WA	
CT		LA		NV		PA		WV	
DE		ME		NH		RI		WI	
FL		MD		NJ		SC		WY	
GA		MA		NM		SD			

*Services Carrier is able to provide to/from/within USA:*

OTR		Air		TDG		Transload	
Rail		Ocean		Heavy Haul		Warehouse	

### Other Services | Equipment

Carrier Operates as:

Asset Based For-Hire Carrier:	<input type="checkbox"/>
Broker   Non-Asset Based:	<input type="checkbox"/>
Broker   Asset Based:	<input type="checkbox"/>

*\*As per Carrier/Broker agreement, carriers may NOT subcontract nor broker Xylan shipments unless they have been recognized in the agreement as a 3rd Party Broker*

Please list any other services or equipment that you wish Xylan to be aware of:

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# Carrier | Broker Agreement

This Agreement is made and entered into by and between:

**Xylan Logistics Ltd.**

("Broker") a Registered Property Broker, Lic. No. MC-94593  
and

Carrier/Brokerage Company Name: \_\_\_\_\_

("Carrier") MC#: \_\_\_\_\_ USDOT #: \_\_\_\_\_

Carrier is an interstate or intrastate motor carrier operating pursuant to authority granted to it to do so by the FMCSA and the U.S. Dept. of Transportation ("DOT") in the United States and the National Safety Code program for Canadian carriers, under the license(s) listed above and/or pursuant to other permits and/or licenses to operate as an intrastate motor carrier granted to Carrier by one or more state regulatory agencies; NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, Broker and Carrier agree as follows:

**1.1 Scope.** Where practical, Broker will provide to Carrier, by electronic or other means, a written confirmation of the verbal rate agreement for each load tendered to Carrier by Broker. Carrier will sign the Load Confirmation for each load tendered and will return the same to Broker as soon as is practical. The terms set forth in this Agreement shall apply, however, to all shipments tendered to Carrier by Broker and accepted by Carrier (whether such acceptance is manifest orally, in writing, or by performance in whole or in part) regardless of whether a Load Confirmation is actually sent to Carrier and regardless of whether the Load Confirmation for a particular load is actually signed by Carrier and returned to Broker.

**1.2 Term.** The term of this Agreement shall be one year from the date hereof and it shall automatically be renewed for successive one (1) year periods, unless terminated, upon thirty (30) day's prior written notice, with or without cause, by either Party at any time, including the initial term. In the event of termination of this Agreement for any reason, the Parties shall be obligated to complete performance of any work in progress in accordance with the terms of this Agreement.

**2.1 Tender and Acceptance of Loads.** Broker agrees to offer to Carrier one or more shipments during the term of this Agreement. Once Carrier agrees, verbally or otherwise, to transport a load, Carrier agrees to provide motor carrier services, including, but not limited to, providing a licensed and qualified driver and all necessary equipment, in order to meet the distinct needs of Broker's customers including the needs of timely delivery. Carrier agrees that it will not supply equipment that has been used to transport hazardous wastes, solid or liquid, regardless of whether they meet the definition contained in 40 C.F.R. § 261.1 et seq. Carrier reserves the right to refuse to transport any shipment prior to picking up or loading such shipment. Once a shipment has been loaded onto Carrier's equipment, however, Carrier agrees to transport such load in a safe and timely manner in accordance with the terms of this Agreement and any Load Confirmation or other documents provided by Broker; and, Carrier agrees that should it return such shipment to its origin or should Carrier fail or be unable to deliver such a shipment to its appointed destination, Carrier shall be liable to Broker for all costs associated with finding and hiring any substitute carrier or employing any other means of delivering such load to its appointed destination and for any other costs associated with transporting such load of freight. Carrier agrees to notify Broker in advance of any accepted or scheduled load that Carrier may not be able to pick up, transport, or deliver in a timely manner. Such notice must be provided in writing to Broker at least twenty-four (24) hours in advance of the scheduled pick-up for such load.

**2.2 Non-Exclusive Agreement.** Broker and Carrier acknowledge and agree that this Agreement does not bind either party to the exclusive services to each other. Either party may enter into similar or other agreements with any other person or entity.

**2.3 Issuance of Bills of Lading.** Carrier agrees that for each load of freight tendered and accepted hereunder, Carrier will issue and sign a bill of lading in compliance with 49 C.F.R. § 373.101 for each load tendered hereunder and that Carrier will list Carrier's name and MC# on any and all bills of lading, and will list no other name or MC#. If Broker's name is listed on a bill of lading or other shipping document as the "carrier" or otherwise, such listing shall be deemed to have been for convenience only and shall not change Broker's role as broker; nor shall it change Carrier's role or status as the motor carrier.

**2.4 Responsibility/Liability for Freight.** Unless otherwise agreed in writing, Carrier shall become fully responsible for a load

of freight and liable for any loss of or damage to such freight when it takes/receives possession of the same, regardless of whether a bill of lading has been issued and/or signed and/or delivered to Carrier. Such responsibility and liability shall continue until delivery of the freight to the consignee and the consignee's acceptance of the same. Failure of Carrier to issue and/or adopt a bill of lading, or to sign a bill of lading acknowledging receipt of the freight or otherwise shall not affect the liability of Carrier for damage to and/or loss of such freight.

**2.5 Canceled Loads/Truck Ordered Not Used.** If Broker has tendered a load to Carrier that is subsequently cancelled and Carrier has actually sent a driver to pick-up the load prior to notification that such load has been cancelled, Broker agrees to pay to Carrier and Carrier agrees to accept any amount that Broker is able to collect from its customer relating to cancellation of such load. Carrier shall provide to Broker all supporting documentation requested by Broker in order for Broker to present any such claim to its customer.

**2.6 Conflict Between Contract and Bill of Lading.** It is understood and agreed that, in the event of a conflict between this Agreement and bill of lading, delivery receipt, or other shipping documentation, the terms, conditions and provisions of this Agreement shall solely determine and govern the rights and obligations of the parties hereto, including among other things, the applicable rates and charges and the liability of CARRIER for cargo loss and damage.

**3.1 Payment Terms.** Broker agrees to pay Carrier's invoice within 25 days of receipt of original proof of delivery, bill of lading, and signed Rate Confirmation Sheet, and any other documents pertaining to the load reasonably required by Broker, provided Carrier is not in default under the terms of the Agreement.

**3.2 Rates.** Carrier and Broker agree that this is an agreement for specified services pursuant to 49 U.S.C. § 14101(b); thus, the terms of any tariff, statute, rule, regulation, or other agreement(s) that are inconsistent with or conflict with the terms of this Agreement shall not apply; and, Carrier expressly waives any and all rights and/or remedies to which it may be entitled under 49 U.S.C., Subtitle IV, Part B (ICC Termination Act of 1995) to the extent that the same conflict with any term of this Agreement. Carrier agrees that the mutually agreed upon rate as set forth in the Load Confirmation is reasonable for delivery of the subject load to its appointed destination, that such rate is inclusive of any license fees, taxes, tolls, permits, costs of loading, stop-offs, unloading or lumpers, escorts, fuel surcharges, accessorial charges, detention and/or demurrage charges (unless otherwise agreed to in writing), that the freight would not have been tendered to Carrier at any higher rate, and that no amount greater than the amount set forth in the applicable Load Confirmation shall be paid to Carrier.

**3.3 Billing of Broker Customers.** Broker is the sole and exclusive party that is responsible and/or liable to pay Carrier for its services. Carrier hereby waives any claim it may have, against any person or entity other than against Broker for payment for its services and agrees that Carrier shall not seek payment from any shipper/consignor, consignee, or any other person.

**4.1 Carrier's Representations and Warranties.** Carrier hereby warrants and represents to Broker that: **a)** Carrier is in compliance, and shall maintain compliance during the term of this Agreement, with all applicable federal, provincial, state and local laws relating to the provision of its services including, but not limited to: transportation of Hazardous Materials, (including the licensing and training of drivers), as defined in 49C.F.R §172.800, §173, and §397 et seq. to the extent that any shipments hereunder constitute Hazardous materials; security regulations; owner / operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety regulations including, but not limited to hiring, controlled substances, and hours of service regulations; sanitation, temperature, and contamination requirements for transporting food, perishable, and other products; qualifications and licensing and training of drivers; implementation and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers; and all applicable insurance laws and regulations, including, but not limited to, workers compensation. **b)** Carrier is solely responsible for any and all management, governing, discipline, direction and control of its employees, owner/operators, and equipment with respect to operating within all applicable federal, provincial and state legal and regulatory requirements to ensure the safe operation of Carrier's vehicles, drivers and facilities. Carrier and Broker agree that safe and legal operation of the Carrier and its drivers shall completely and without question govern and supersede any service requests, demands, preferences, instructions, and information from Broker or Broker's customer with respect to any shipment at any time. **c)** Carrier will notify Broker immediately if its federal Operating Authority is revoked, suspended or rendered inactive for any reason; and/or if it is sold as an entity or in the case of an asset purchase involving a significant percentage of the company's assets, or if there is a change in control of ownership, and/or any insurance required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason.

**5.1 Carrier Liability for Loss, Damage, and/or Delay Claims.** Carrier hereby assumes liability for and agrees to pay Broker, Broker's customer, the shipper/consignor, and/or the consignee, for any and all loss, theft, shortage or damage caused to any

freight tendered to Carrier hereunder while such freight is in transit or is otherwise in Carrier's care, custody, or control; and, Carrier acknowledges and agrees that its liability therefore shall be no less than that of a "common carrier" as provided for in 49 U.S.C. § 14706 (the Carmack Amendment). In the event that a shipment tendered to Carrier hereunder, or any part or portion thereof, is lost, damaged, or otherwise not delivered in the same condition as when tendered to Carrier, Carrier's liability therefore shall be in the amount of the original invoice value or, alternatively, the fair retail market value at the destination point, whichever is greater. Carrier shall also be liable to pay the claimant's and Broker's administrative expenses incurred in connection with the filing and prosecution of any claims for loss, theft, shortage, or damage to a shipment or a delay claim, plus the freight charges allocable to the lost or damaged freight. In the event of such a loss, Carrier shall not dispose of damaged freight or freight rejected by a consignee without the prior written consent of Broker and/or the beneficial owner of such freight. Moreover, the shipper/consignor, consignee, or other beneficial owner of the subject freight may determine in its sole discretion whether the entire load or any part thereof should be re-sold as salvage or should be otherwise disposed of or destroyed. Carrier shall not claim or contest that such decision by the shipper/consignor, consignee or other beneficial owner was in breach of any obligation to mitigate damages or is otherwise improper. The shipper/consignor, consignee or other beneficial owner shall, in any event, have the right to remove from the goods shipped any and all identifying marks or labels or, alternatively, to mark the goods "Damaged" or similar notation, whether such goods are sold as salvage or otherwise or are otherwise disposed of or destroyed. In the event of a claim for delay in delivery of freight ("a delay claim"), Carrier shall pay to Broker, Broker's customer, the shipper/consignor, and/or the consignee, the actual damages caused by such delay claim. The provisions of this Agreement shall supersede and prevail over any terms or provisions to the contrary contained in Carrier's tariff(s), pricing agreements, or other documents. Any attempts to limit Carrier's liability for loss, damage, shortage, or delay claims as set forth in this Agreement shall be ineffective and are hereby deemed and agreed to be null and void.

**5.2 Claims Processing.** Carrier agrees that the provisions in 49 C.F.R. § 370.1, et seq. shall govern the processing of claims and the processing of salvage, except as may be otherwise provided herein. Claims for damage to a shipment and delay claims shall be filed in writing with Carrier within nine (9) months from the date of delivery. Claims for loss, theft, or shortage shall be filed in writing with the Carrier within (3) months from the date the goods were scheduled to be delivered. Any action to recover from Carrier for such claims will be commenced within two (2) years from the date that Carrier gives written notice that it has disallowed or denies all or any part of a claim. Notwithstanding the terms of 49 C.F.R. § 370.9, Carrier shall either pay, decline or make a settlement offer in writing on all cargo loss and/or damage claims within sixty (60) days of receipt of the claim. Failure of Carrier to either pay, decline, or make a settlement offer with respect to a claim within such sixty (60) day period shall be deemed to be an admission by the Carrier of liability for the full amount of such claim and a material breach of this Agreement. If the shipper/consignor, consignee, Broker customer or other person or entity pursues a claim for cargo loss, theft, shortage, damage or delay involving a shipment tendered to Carrier hereunder directly against Carrier and prevails in pursuing recovery for such a claim, such party shall be entitled to recover from Carrier its costs and attorney fees incurred in pursuing such action. Broker shall have the right to deduct, withhold payment of or otherwise offset against any amounts that Broker may owe to Carrier for the full amount of any claim for loss of and/or damage to cargo, for delay in delivery, or for any other claim that Broker may have against Carrier. Additionally, should Broker, in its sole discretion, pay any customer, shipper, consignee, or other party in interest for a cargo loss and/or damage claim or claim for delay in delivery of freight, Broker shall be deemed to be subrogated to the rights of such party to pursue such claim against Carrier and any other potentially responsible person or entity.

**6.1 Carrier's Reporting of and Indemnification for Accidents.** In the event that Carrier's driver or equipment (or the equipment or driver of any of Carrier's agents, subhauliers, connecting carriers, or other carriers to whom Carrier may tender or broker a load tendered hereunder—hereafter "subcontractor(s)"—despite this Agreement's prohibition\* against any such delegation of Carrier's duties hereunder) that is transporting a load tendered hereunder is involved in an accident or other incident causing damage to the shipment, involving personal and/or bodily injury or death to another person, involving damage to the property of another person (including, but not limited to, environmental contaminations or other damage to the environment or damage to the facilities of the shipper or the consignee)—all such types of claims being referred to hereafter as "Claims", Carrier shall immediately notify Broker of any such occurrence or accident; and, Carrier shall indemnify, defend, and hold harmless Broker, Broker's customer, and any shipper/consignor and consignee, and any of their respective parent, subsidiary, sibling, or affiliated corporations, companies, or entities, and each of their respective officers, directors, shareholders, principals, employees, and agents from and against any and all such Claims, whether such Claims arise out of or occur during the course of transporting, loading, unloading, staging, or otherwise moving such load, or otherwise while such load is in the possession, care, custody or control of Carrier or its subcontractor(s), or while Carrier or its subcontractor(s) is traveling to or from a pick-up location or a delivery destination, even though the accident or incident giving rise to such Claims may be caused in part by the concurrent and/or contributory negligence or other fault (whether active or passive or of any kind, nature, or description) of a person or entity to be indemnified hereunder; but, not if the accident or other incident is due solely to the negligence or other fault of the

person or entity to be indemnified hereunder. Any person or entity to be indemnified from Claims hereunder shall have the right, but not the obligation, to participate in the defense, negotiation, and/or settlement of any such Claims, either on its own or through attorneys of its own choosing, without relieving Carrier of any of its obligations hereunder.

**7.1 Insurance Required.** Carrier agrees to procure and maintain, at its own expense, at all times during the term of this Agreement, including any extensions thereof, the following insurance coverage in the amounts indicated and in such greater amounts as Broker may specify from time-to-time: **a)** comprehensive general liability in the amount of, at least, \$1,000,000; **b)** auto-liability (including hired and non-owned vehicles) insurance covering bodily injury (including death) and property damage in the amount of, at least, \$1,000,000 (\$5,000,000 if transporting HAZMAT), including environmental damages due to release or discharge of HAZMAT, per occurrence; **c)** cargo damage insurance in the amount of at least \$100,000 per occurrence; **d)** workers' compensation insurance coverage as required by law and employer's liability insurance in the amount of at least \$100,000. In addition to the higher coverage limits which may be specified above, the insurance policies shall also comply with minimum requirements of the FMCSA and any other applicable regulatory agency. Carriers, regardless of level of insurance coverage, remain liable for the full amount of any loss, theft or damage of freight. Exclusions in Carriers Insurance coverage shall not limit Carriers liability.

**7.3 Policies/Cancellation or Expiration of Insurance** – Exclusions CARRIER shall cause BROKER to be listed as a "certificate holder" under all of Carrier's general liability, auto-liability, and cargo damage insurance policies. This listing shall require the insurance policies to provide a thirty (30) day advance written notice of cancellation or terminations of the above mentioned coverage's. CARRIER will cause its insurance company to send copies of such certificates of insurance confirming such listing to Broker via email. Carrier hereby warrants and represents that its insurance, is valid and continues in effect and that such policies of insurance have no exclusions or waivers that are inconsistent with providing the insurance coverage set forth herein or that would otherwise impair Broker, Broker's customers, shippers/consignors, consignees, or other persons or entities to be indemnified herein or referenced herein from recovering for Carrier's liabilities to such parties hereunder, including, but not limited to, exclusions or waivers relating to: **a)** water or moisture damage to goods; **b)** "reefer breakdown" or losses caused by mechanical failures; **c)** theft, or unattended vehicle; **d)** exclusions of certain types of cargo; or, **d)** covering only scheduled vehicles, when the equipment to be used by Carrier to provide the services hereunder are not scheduled vehicles under such policies. Carrier further warrants and represents that the name under which its motor carrier authority is issued matches exactly the name under the insurance policies required hereunder. Neither Carrier's failure to procure or maintain the insurance required hereunder, or any exclusions or conditions contained in any policies of insurance shall relieve or exonerate Carrier from any of its liability or obligations hereunder, nor shall Carrier be relieved of any liability or obligation hereunder because a claim or obligation exceeds the amount of insurance procured or maintained by Carrier.

**8.1 Independent Relationship.** Carrier's relationship to Broker shall at all times be that of an independent contractor and nothing contained herein shall be construed to be inconsistent with that status. No term or provision of this Agreement, nor any act or omission of either party shall be construed for any purpose to express or imply any joint venture, partnership, principal/agent, employer/employee or other relationship between Broker and Carrier. Carrier shall have no authority to act on behalf of Broker or to alter in any manner any contractual or other relationship of Broker with its customers, shippers/consignors, consignees, or any other person or entity. Carrier shall bear all costs of and shall provide all labor, wages, equipment, fuel, insurance, payroll taxes and all other costs associated with performance of Carrier's transportation services. Carrier agrees to indemnify, defend and hold Broker harmless from all claims or liability imposed or asserted against Broker relating to such costs.

**8.2 No Control or Right of Control by Broker.** Broker cannot and shall not exercise any control over the manner in which Carrier performs its services hereunder or Carrier's operations, nor does Broker retain any right to control or otherwise supervise Carrier or Carrier's employees or other agents. Carrier shall be solely responsible for any and all management, control, governance, discipline, of its employees, agents, and owner/operators. Even though Broker or its customers, shippers/consignors, consignees, or other persons or entities may from time-to-time in Load Confirmations or other documents provided to Carrier suggest routes, types of equipment, methods of securing loads, or other means of transporting and delivering the subject freight, such suggestions, are for informational purposes only. Carrier retains the right to choose routes, times that Carrier will perform its services, employees, equipment to be used, methods of securing loads, methods of loading or unloading freight and all other means of transporting and delivering the freight. Carrier agrees, however, that it shall deliver each load tendered to it by Broker hereunder to its appointed destination in good condition and in a timely manner according to the dates and times that each such load should be picked-up and delivered and that Carrier will do so in a safe and lawful manner and in accordance with all laws pertaining to hours of service. Carrier should consider instructions, guidelines and/or other suggestions from shippers/consignors and/or consignees; Carrier, however, remains ultimately responsible to choose and

control the method of securing the load and transporting the load and will do so in a safe manner without damaging the load or endangering the public or any person or entity.

**8.3 Delegation/Subcontracting/Re-Brokering Prohibited\***. Carrier shall not re-broker, co-broker, double-broker, subcontract, assign, interline or otherwise transfer or delegate the transportation of any load tendered to it by Broker, nor shall Carrier retain or engage any subhaulers, connecting carriers, rail carriers or other mode of transportation, without the prior written consent of Broker with respect to any and each specific load so delegated. In the event that Carrier breaches this provision prohibiting rebrokering, subcontracting, interlining or otherwise delegating any of Carrier's duties hereunder, Carrier agrees to indemnify, defend, and hold harmless Broker, Broker's customers, the shipper/consignor, the consignee, and any other "bill to" party for any claims or actions arising out of or relating to the acts or omissions of the person or entity to whom Carrier re-brokered, assigned, interlined, transferred the load or otherwise delegated its duties with respect to such load, whether such claims or actions involve damage to freight or other property or involve personal injury, including death. In addition, Broker retains the right, at Broker's sole option, to not pay Carrier for transporting such a load and to charge Carrier the total amount that would have been paid to Carrier for transporting such a re-brokered or delegated load.

**8.4 Brokerage Firm Acceptance\***. If 3<sup>rd</sup> Party Broker Recognition section at the end of this agreement is signed, Xylan Logistics Ltd recognizes carrier as a licensed brokerage firm and gives permission for shipments to be brokered and/or subcontracted out to brokerage firm's carriers. Subsequently, the brokerage firm is requirement to ensure that their carriers assigned to Xylan shipments adhere to all carrier requirements in this agreement. Brokerage firm will hold harmless Xylan Logistics Ltd in regards to all transactions between the brokerage firm and their own carriers.

**9 Covenant to Not Solicit**. As part of the consideration for this Agreement, Carrier agrees not to solicit or to otherwise perform transportation or broker services, either directly or indirectly, for any customer of Broker during the term of this Agreement (including any extensions hereof) and for a period of twenty-four (24) months following termination of this Agreement. Should Carrier violate the non-solicitation provisions of this Section, Carrier agrees to pay Broker, as liquidated damages, an amount equal to fifteen percent (15%) of the gross transportation revenue generated by Carrier's performing transportation or brokerage services for any Broker customer for a period of twenty-four (24) months.

**10 Confidential Information**. Carrier further agrees that it shall protect and keep confidential any and all non-public, confidential, or proprietary information of Broker, including, but not limited to, the identity of customers, freight and brokerage rates, and/or any information disclosed or provided to Carrier pursuant to 49 C.F.R. § 371.3, that might be provided to Carrier in connection with performance of this Agreement.

**11 California Air Resource Board (CARB)**. To the extent that any shipments subject to this Agreement are transported within the State of California, Carrier warrants that: **a)** All 53-foot trailers, including both dry-van and refrigerated equipment it operates, flatdeck trailers and the Heavy-Duty Tractors that haul them within California under this Agreement are in compliance with the California Air Resources Board (CARB) Heavy-Duty Vehicle Greenhouse Gas (Tractor-Trailer GHG) Emission Reduction Regulations. **b)** All refrigerated equipment it operates within California under this Agreement is in full compliance with the California Air Resource Board (CARB) Transport Refrigerated Unit (TRU) Airborne Toxic Control Measure (ATCM) in-use regulations. **c)** Carrier shall be liable to Broker for any penalties, or any other liability, imposed on, or assumed by Broker due to penalties imposed on Broker's customer because of Carriers' use of non-compliant equipment.

**12 Additional Remedies/Injunctive Relief**. All provisions of this Agreement may be specifically enforced, however, the failure of Broker to promptly enforce such provisions shall not be construed to be a waiver of Broker's rights hereunder. In addition, Carrier recognizes that the payment of damages hereunder may not fully compensate Broker for Carrier's breach of the provisions of this Agreement and that Broker will likely suffer irreparable harm from such a breach. Accordingly, Carrier agrees that should it breach or violate the provisions of this Agreement, that Broker will be entitled to injunctive relief prohibiting Carrier's breach or violation.

**13 Governing Law/Jurisdiction/Attorney Fees**. This Agreement shall be deemed to have been negotiated and entered into within the Province of British Columbia Canada. Accordingly, except to the extent (if any) pre-empted by federal law, the laws of the Province of British Columbia shall govern the interpretation of this Agreement. Carrier expressly submits to the jurisdiction of the Courts of the Province of British Columbia and the Supreme Court of Canada and agrees that jurisdiction and venue shall be proper in such Courts and Carrier waives any claim or defense that such Courts will be an inconvenient forum. Carrier agrees to pay to Broker any and all costs and attorney fees incurred by Broker in enforcing any term or provision of this Agreement,

whether incurred before or after institution of a formal legal proceeding and whether incurred before or after entry of a judgment.

14 **Severance Survival.** In the event any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected, and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive terminations of the Agreement for any reason.

15 **Entire Agreement.** Unless otherwise agreed in writing, this Agreement contains the entire agreement and understanding of the Parties and supersedes all verbal or written prior agreements, arrangements, and /or understanding of the Parties relating to the subject matter stated herein. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform this agreement in any judicial or arbitration proceeding involving this Agreement.

In Witness Whereof, we have signed this Agreement the date and year first shown above.

Xylan Logistics Ltd. ('Broker')

\_\_\_\_\_  
Xylan Representative Name | Title

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

'Carrier'

\_\_\_\_\_  
Authorized Carrier Representative Name | Title

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

**\*3rd Party Brokerage Recognition**  
**Xylan Logistics Ltd hereby recognizes 'Carrier' in this agreement as a 3rd party brokerage firm.**

\_\_\_\_\_  
Xylan Representative Name | Title

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

*Xylan Logistics Ltd. | #1001, 4445 Lougheed Hwy | Burnaby BC Canada | V5C0E4  
902.394.3392 | michelle@xylanlogistics.com*



# Request for Certificate of Insurance

Carriers/Brokers: Please complete this form and send to your insurance agent to expedite the processing of your carrier setup packet with Xylan Logistics Ltd.

### Insurance Agent Information

Insurance Agent Name: \_\_\_\_\_

Insurance Agent Fax #: \_\_\_\_\_

Insurance Agent Phone#: \_\_\_\_\_

Insurance Agent Email: \_\_\_\_\_

### Carrier/Broker's Information

Carrier/Broker Company: \_\_\_\_\_

Carrier/Broker's Phone#: \_\_\_\_\_

Carrier/Broker's Signature: \_\_\_\_\_

Dear Insurance Agent,

Please email an insurance certificate for the carrier/broker listed above referencing their CGL, Auto/3<sup>rd</sup> Party Liability and Cargo Insurance. Xylan Logistics Ltd. must be listed as **Certificate Holder**.

Certificate Holder:

**Xylan Logistics Ltd.**

**#1001, 4445 Lougheed Hwy | Burnaby BC Canada | V5CoE4**

- \$100,000 Minimum Cargo Coverage
- \$1,000,000 Minimum Auto/3<sup>rd</sup> Party Coverage
- \$1,000,000 General Liability Coverage\*

Please email copy to: [michelle@xylanlogistics.com](mailto:michelle@xylanlogistics.com)

Attn: Carrier SetUp

Phone: 902.394.3392

\*If a carrier/broker does not have CGL please contact Michelle Thomas directly at the above phone number to discuss.

Thank you in advance for the prompt response to this request. Shipments will not be released to the Carrier/Broker until all paperwork is complete and on file.

Thank you!

Xylan Logistics Ltd | Management