

RAILCAR TRANSLOAD SERVICE AGREEMENT

This Agreement dated as of _____, 2010 between P.T. Railroad Services, Ltd., an Ohio limited liability company operating under contract at the facilities of Peninsula Terminal Company, an Oregon railroad, and the customer and owner identified below. Throughout this Agreement, P.T. Railroad Services, Ltd. shall be referred to as “P.T.”, Peninsula Terminal Company shall be referred to as “Railroad”, customer shall be referred to as “Customer”, and if the owner of the product is different than the customer the owner shall be referred to as “Owner”.

Customer: _____ a _____ corporation, with principal offices in _____.

Owner: _____ a _____ corporation, with principal offices in _____.

In consideration of the mutual covenants and undertakings set forth herein, P.T. agrees to transload Customer’s/Owner’s product from railcar to tank trailer on Railroad’s property in accordance with the terms of this Agreement.

1) CUSTOMER PRODUCTS AND CAR TRANSLOAD CHARGES. The Customer/Owner Products to be transloaded by P.T. and the cost per railcar for transloading are set forth in Attachment A. Product will be delivered via Railroad. Customer shall provide P.T. with notice of inbound shipment of Product when the railcar leaves point of loading. Prior to the first delivery of specific Product, Customer shall provide P.T. with the Manufacturer’s Safety Data Sheet for the Product.

2) TRANSLOAD AREA AND EQUIPMENT. P.T. shall secure from Railroad at P.T.’s expense, rail space with adjacent asphalt contained tank trailer pad to accommodate a sufficient quantity of Customer’s railcars to service Customer’s Product needs. (“Customer’s Transload Area”) P.T. shall provide at Customer’s cost dedicated hoses and fittings for each product. Upon termination of this Agreement, Customer has the right to remove the dedicated hoses and fittings. P.T. shall provide the power and air required for transloading Product. Steam heating of Product and other ancillary services requested by Customer will be provided at the pricing set forth in Attachment A.

3) RAILCAR AND CAR COSTS. P.T. shall have no liability for any railcar with respect to ownership or lease costs of Customer. P.T. shall not charge Customer railcar storage while Customer’s railcar is in Customer’s Transload Area. The original inbound railcar move to Customer’s Transload Area and the final outbound move of empty railcars to interchange are included in the line haul charge paid to the mainline carrier. Switching of partially full railcars in and out of the Customer’s Transload Area shall be subject to Railroad’s Tariff. Storage of railcars which cannot be accommodated in Customer’s Transload Area shall be subject to separate agreement between Customer and Railroad.

3.1 DEMURRAGE. P.T. agrees to assume liability for any demurrage on rail equipment that occurs directly as a result of P.T.'s negligent operations. All other demurrage accruing on rail equipment shall be paid by Customer.

4) TRANSLOAD SERVICES. P.T. shall transload Customer's/Owner's product from rail tank car to tank trailer as instructed in writing by Customer. Unless modified by addendum to this Agreement, P.T.'s Transload Services shall include the following:

4.1 WORK ORDER RESPONSE. Customer shall provide P.T. with at least one work day advance notice of its daily transload requirements. The notification shall be in writing transmitted by fax or e-mail. The notification shall give the time Customer's driver wishes to arrive for loading. If P.T. is unable to accommodate Customer's driver at the requested time, P.T. shall advise Customer of available time slots. Unscheduled requests for transloading shall be on a first-come first-serve basis subject to availability of P.T. personnel and equipment. P.T. shall coordinate with Customer for the delivery of Customer's Product Bill of Lading to Customer's drivers. P.T. shall advise Customer by fax or e-mail upon completion of each work order. The notification shall include the quantity of Product which Customer's driver determined had been transloaded into Customer's trailer.

4.2 INVENTORY REPORTING. P.T. shall maintain for the term of this Agreement a written record of each railcar spotted in Customer's Transload Area and the work orders filled from the railcar. P.T. shall coordinate with Railroad to create a record of loaded Customer railcars in storage awaiting delivery to the Transload Area.

4.3 REGULATORY COMPLIANCE. Customer shall provide P.T. with Manufacturer's Safety Data Sheets and personnel protection requirements for the safe handling of Customer's/Owner's Product. P.T. shall insure that its employees are aware of any disclosed Product hazards and are equipped with personnel protective equipment and devices. P.T. shall exercise reasonable care to prevent Product spillage during transloading. P.T. shall be responsible for the cleanup and any required governmental notification of any uncontained release of Product. P.T. shall immediately report any uncontained release of Product to Customer followed by a report of the abatement actions undertaken. P.T. shall comply with all applicable laws and regulations in performing the transloading and services for Customer under this Agreement. P.T. and Railroad represent and warrant that the facilities described in this Agreement shall comply with existing governmental laws and regulations relating to the storage and handling of Customer's Products including all existing governmental laws and regulations which may have been enacted prior to execution of this Agreement but whose enforcement may be delayed until a subsequent date. Should any governmental body, after the execution of this Agreement, require alterations to the existing facilities as described in this Agreement due to the nature of Customer's Products, P.T. and Railroad shall first give Customer an estimate of the cost of the installation of such fixtures. Customer shall have the option to pay (a) the actual cost of the necessary alterations or (b) terminate this agreement. Customer shall make its election in writing within 30 days of receipt of the

cost estimate. All such costs for alterations to be paid by Customer to P.T. shall be paid by one time payment or by equal monthly installments to include interest, over the remainder of this Agreement.

4.4. TITLE AND CUSTODY. Title to the Product stored and handled hereunder shall always remain the property of Customer/Owner. Customer/Owner shall have the right to remove, or direct the removal of, any and all Product from the Railroad, upon payment of all accrued charges. P.T. shall be deemed to have custody of the Product from the time it passes the flange connection between the delivery railcar's line and Railroad's receiving line and until it passes the flange connection between Railroad's delivery line and the receiving tank car's connection. P.T. shall exercise due care in the receipts, handling, storage and redelivery of the Product.

5) BILLING AND PAYMENT. P.T. shall invoice Customer the first and fifteenth of each month for the transload services performed the previous month. Payment for the previous month's services is due fifteen days from the date of the invoice. Any invoice not paid according to the terms set forth above shall begin to accrue interest at the rate of 1% per month until paid. P.T. shall have the right to suspend transload services if Customer fails to pay any invoice in accordance with this Agreement.

6) INSURANCE, RESPONSIBILITY FOR LOSS OR DAMAGE. Customer/Owner shall maintain comprehensive insurance coverage for Product and railcars while same are in P.T. custody and control. P.T., either directly or as an additional insured of Railroad, shall maintain comprehensive general liability insurance for injury to person or property, including pollution liability, with combined limits of one million dollars for each occurrence. P.T. shall also maintain Workers' Compensation insurance in accordance with Oregon statute. Neither party shall have any liability for any risk insured by the other or which the other is responsible for insuring under this Agreement. In consideration of the charges set forth in Attachment A (it being recognized that higher charges would be made but for the limitation of liability set forth in this section), it is understood and agreed that under no circumstances may P.T.'s liability for Product loss or damage exceed ten cents per pound of product lost or damaged. If requested, P.T. will promptly provide Customer/Owner with certificates of insurance evidencing its insurance coverage, with the insurer's agreement to provide customer with thirty (30) days' prior written notice of any cancellation, expiration, non-renewal or reduction in coverage of any such policy.

P.T. shall in no event be liable for loss or damage to Customer's/Owner's Product(s), except when caused by P.T.'s failure to use reasonable care in the safekeeping and handling of Customer's Product(s), the performance of services, or other negligence or willful misconduct of P.T. P.T. shall not be liable for evaporation, clingage, separation or discoloration of Product while in storage

7) TERM AND TERMINATION. This Agreement shall commence upon its execution by both parties and continue until terminated upon 60-day written notice by either party or material breach of the Agreement by either party. P.T. agrees to honor the pricing set forth in Attachment A for the first 12 months this Agreement is in effect.

8) INDEMNIFICATIONS.

8.1 P.T. shall be responsible for and shall indemnify, defend and save harmless Customer/Owner and its parents, subsidiaries and affiliates and each of their respective officers, directors, agents, employees and representatives of each (collectively, "Customer Indemnified Parties"), from and against any and all liability, suits, losses, demands, actions, causes of action, fines, penalties, damages and claims of any kind or nature, including, without limitation, reasonable attorney's fees and costs (collectively, "Claims"), which any of Customer Indemnified Parties may hereafter incur, pay or become responsible for as a result of death or bodily injury to any person (including employees of P.T. or Railroad), destruction or damage to property other than the Product(s), contamination of or adverse effects on, imminent or substantial endangerment of, or any threatened or actual release to the environment, or any violation or alleged violation of laws (including without limitation the Resource Conservation and Recovery Act of 1976 ("RCRA") and the U.S. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)) which is related to, or arises out of a breach of P.T.'s duties and obligations under this Agreement.

8.2. Customer agrees that it shall be responsible for and shall indemnify, defend and save harmless P.T. and Railroad, its parents, subsidiaries and affiliates, and each of their respective officers, directors, employees, agents and servants (collectively, "P.T. Indemnified Parties"), from and against any and all liability, suits, losses, demands, actions, causes of action, fines, penalties, damages and claims of any kind or nature, including without limitation reasonable attorney's fees and costs (collectively, "Claims"), which any of P.T. Indemnified Parties may hereafter incur, pay or become responsible for as a result of death or bodily injury to any person (including employees of Customer/Owner), destruction or damage to property, contamination of or adverse effects on, imminent or substantial endangerment of, or any threatened or actual release to the environment, or any violation or alleged violation of laws (including without limitation RCRA and CERCLA) which is related to, or arises out of, Customer's negligent act or omission, a breach of Customer's duties and obligations under this Agreement.

8.3. Under no circumstances shall either party be liable to the other party for indirect, punitive or consequential damages including lost profits.

8.4. In the event that an Indemnified Party under this Agreement seeks the benefits and protections set out in sections 8.1 or 8.2, such party shall, immediately upon becoming aware of any Claim for which indemnification is sought, provide to the Indemnifying Party written notice of such claim and turn over the defense of the Claim, together with all rights of compromise and settlement, and shall fully cooperate with the Indemnifying Party in the defense of such claim.

Further, it is specifically agreed between the parties that the respective indemnities granted in this Agreement shall remain in effect and be valid notwithstanding the contributory negligence of the Indemnified Party in connection with any Claim or the imposition of strict liability upon any party. Accordingly, in the event that an Indemnified Party is determined (by a court or regulatory authority of competent jurisdiction or by separate written agreement between the parties) to be contributorily negligent or otherwise at fault in connection with a Claim for which indemnification is sought hereunder, then the amount of indemnification that such Indemnified Party would otherwise be afforded under this provision shall be reduced in proportion to such contributory negligence or fault of the Indemnified Party.

9) ACCESS. Customer's right of entry onto Railroad's property is as a licensee of Railroad under this Agreement. Customer, its employees and agents agree to abide by Railroad's security measures as such are communicated by Railroad. Customer shall have the right to ingress and egress to Railroad's property at any time under emergency situations. Non-emergency access will be available weekdays between the hours of 6:00 a.m. and 6:00 p.m. and any other time upon request and subject to separate compensation arrangement. Customer shall have the right, reasonably exercised, to observe and verify P.T.'s transloading services hereunder and to review or audit P.T.'s records related to its performance of this Agreement and make copies thereof at Customer's expense.

10) FORCE MAJEURE

10.1 If any Party is rendered unable, wholly or in part because of a force majeure as described below, to carry out its obligations under this Agreement, other than the obligation to report and make money payments when due, that Party shall give the other Party prompt written notice of the force majeure with reasonable full particulars concerning it; whereupon, the obligations of the Parties, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected Party shall use all commercially reasonable diligence to remove the force majeure (excluding strike, lockouts or other labor difficulties) as quickly as possible and shall promptly notify the other in writing when the force majeure event has terminated.

10.2 The term "force majeure" as herein employed shall mean an Act of God, strike, lockout, or other industrial disturbance, act of the public enemy, act of terrorism, war, blockade, public riot, lightning, fire, storm, flood, explosion, blackout, orders of any kind of the government of the United States of America, the State or municipality or any of their departments, agencies or officials, orders of any civil military authority, unavailability of product or equipment, breakage or accident to machinery, transmission pipes or canals, partial or entire failure of utilities, and any other cause, which is not reasonably within the control of the Party claiming suspension.

11) NOTICES. Any notification or communication called for in this Agreement shall be via U.S. mail, fax, e-mail or courier addressed as follows:

If to P.T.:

P.T. Railroad Services, Ltd.
11645 N. Force Avenue, Suite A
Portland, Oregon 97217
Fax: (503) 285-6154
E-mail: jlfiederer@peninsulaterminal.com

If to Railroad:

Peninsula Railroad Company
11645 N. Force Avenue, Suite A
Portland, Oregon 97217
Fax: (503) 285-6154
E-mail: kawarnes@peninsulaterminal.com

If to Customer:

Fax: _____
E-mail: _____

If to Owner:

Fax: _____
E-mail: _____

12) RESPONSIBLE CARE. Customer and P.T. acknowledge the importance of handling the Product(s) in a manner that will ensure the safety of people and the protection of the environment. Each Party agrees it will use, handle, store, transport and dispose of Product(s) in such manner as is necessary to ensure the safety of persons and the protection of the environment, and in accordance with all applicable laws and regulations. Each Party shall have the right to suspend delivery of the Product(s) upon 14 days notice if the other Party is not complying with all applicable laws and regulations. Delivery shall recommence at the time such Party is in compliance with all applicable laws, regulations and standards. If a Party remains out of compliance with applicable

laws and regulations 45 days after notice of the suspension of delivery of Product(s), the other part may terminate this Agreement upon seven days prior written notice.

13) P.T. QUALITY ASSURANCE. P.T. and Customer will negotiate and agree to certain quality assurance procedures and product specifications for each Product handled by P.T. for Customer. Addenda or schedules which may form a part of this Agreement shall set out the details concerning expected quality assurances.

14) ENTIRE AGREEMENT/NON-WAIVER. This Agreement contains all the representations, stipulations, warranties, agreement and understandings, with respect to the subject matter of this Agreement, and its execution has not been induced by any representation, stipulation, warranty, agreement or understanding of any kind other than these herein expressed. No amendment, addition to, alteration, modification, or waiver of all or part of this Agreement shall be of any force or effect unless in writing and signed by P.T., Railroad, Customer and if applicable, Owner. If the terms and conditions of this Agreement and those of any purchase order written in connection with this Agreement conflict, then the terms and conditions of this Agreement shall govern. Failure of any Party to require performance of any provision of this Agreement shall not affect its right to require full performance thereof at any other time thereafter, and the waiver of a breach of any provision shall not constitute a waiver of any other breach thereof or nullify the effectiveness of such provisions.

15) DISPUTE RESOLUTION. The construction of this Agreement and the rights and obligations of the Parties hereunder shall be governed by the laws of the State of Oregon. The Parties agree that any dispute, controversy, or claim between the parties arising out of or relating to this Agreement, or the alleged breach of this Agreement (expressly including the validity, scope and enforceability of this arbitration agreement) shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”). The Parties stipulate this Agreement involves a transaction in interstate commerce and that the Federal Arbitration Act is fully applicable. Demand for arbitration must be made in writing within six months after the accrual of the claim on which the demand is based. If the claiming Party fails to demand arbitration within six months, the claim shall be deemed to be waived and shall be barred from either arbitration or litigation. The arbitrator shall be selected by mutual agreement of the Parties, if possible. If the parties fail to reach agreement upon appointment of an arbitrator within thirty days following receipt by one party of the other party’s demand for arbitration, the arbitrator shall be selected from a panel or panels of persons submitted by the AAA. The selection process shall be that which is set forth in the AAA Commercial Arbitration Rules then prevailing, except that, if the Parties fail to select an arbitrator from one or more panels, AAA shall not have the power to make an appointment but shall continue to submit additional panels until an arbitrator is selected. The arbitrators shall have no power to modify the terms of this Agreement or to award punitive damages. Arbitration proceedings shall be conducted in the city of Portland, Oregon. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties.

16) GOVERNING LAW. The construction of this Agreement and the rights and obligations of the parties hereunder shall be governed by the laws of the State of Oregon. Each Party irrevocably waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement to be effective as of the date first set forth above.

P.T.:

Customer:

P.T. RAILROAD SERVICES, LTD.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Railroad:

Owner:

PENINSULA TERMINAL COMPANY

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT A TO
RAILCAR TRANSLOAD SERVICE AGREEMENT**

- 1) **Customer Products:**
- 2) **Transfer Rates:**
- 3) **House of Service:**

Monday through Friday 06:00 to 18:00, excluding Holidays.

Holidays:

New Years Day	Labor Day	Presidents Day
Thanksgiving	Good Friday	Day after Thanksgiving
Memorial Day	Christmas Eve	Independence Day
Christmas Day	New Years Eve	

- 4) **Accessorial Services:**
 - * Certified Scale \$11.00 per completed transaction
 - * Steam Heating: \$58.00 per hour
 - * Overtime: \$58.00 per hour billed in quarter hour increments.

Note: Work performed outside of regular hours or on weekends and Holidays must be approved in advance.

- 5) **Peninsula Terminal Company Railcar Storage Rates**
Billed Separately by Railroad.

STORAGE RATES

0 - 30 days	Free
31-40 days	\$10 per day
41-50 days	\$20 per day
51+ days	\$30 per day

- 6) **Billing and Payment.** P.T. shall bill for services twice per month. Railroad bills for storage and transfers once per month. Invoices are due net 15 days of invoice date. Any invoice not paid in accordance with these credit terms shall accrue interest at the rate of 1% per month.

P.T. Railroad Services, Ltd.

by: _____
Title

by: _____
Title

Peninsula Terminal Company

by: _____
Title