

**D-R-A-F-T**  
**BNSF Railway Company**  
**BNSFC <contract number>**  
**TRANSPORTATION CONTRACT**

This Contract is made by and between **BNSF Railway Company**, hereinafter referred to as "BNSF" and **<Shipper>**, hereinafter referred to as "Shipper."

**1. DATE AND TERM**

This Contract shall become effective on (date) and shall expire on (date).

**2. GOVERNING PUBLICATION AND OBLIGATION**

Transportation shall be governed by the terms and conditions herein, and those set forth in the applicable provisions of the "*BNSF Automotive Rules and Policies Guide*" (herein referred to as "*R&PG*"), or successor publication(s), in effect at the time of transportation. Shipper acknowledges that it has received, read and understands the applicable provisions of the "*R&PG*", or successor publication(s). BNSF's obligation shall be as set forth in the "*R&PG*." Other services or terms applicable to the transportation governed by this Contract, but not specifically stated in this Contract or written attachments hereto, are set forth in the *BNSF Automotive Rules and Policies Guide*.

**3. RATES AND CHARGES**

Transportation rates for motor vehicles are contained in the Transportation Service Agreement (herein referred to as TSA) or other written attachments which are attached hereto and incorporated herein. If additional terms or conditions, including, but not limited to, predetermined adjustments terms, are applicable, such terms or conditions will be stated in the TSA or other written attachments. Other applicable charges, including, but not limited to, storage of vehicles at BNSF automotive facilities, are addressed in the "*RP&G*" in effect when the transportation occurs. In the event of any conflict between this Contract and the TSA or other signed attachment, the TSA or other signed attachment shall govern.

**4. FUEL SURCHARGE, SURCHARGES, AND SPECIAL ASSESSMENTS**

BNSF and Shipper agree that the rates in this Contract shall be subject to any Fuel Cost Recovery Surcharge or other surcharges that BNSF may implement during the term of this Contract. Shipper agrees to reimburse BNSF for any cost or special charges assessed to BNSF by any federal, state, port, local or other governmental agency that apply to the transportation by BNSF of traffic subject to this Contract.

**5. CALCULATION AND PAYMENT OF FREIGHT CHARGES**

Subject to the rules set forth in "*R&PG*" and in effect at the time of the shipment, the freight charges will be determined by applicable TSA or other written attachment in effect at time of shipment and shown on the shipping instructions. The Shipper agrees to pay all freight and accessorial service charges on all shipments moving under this Contract in accordance with the terms in the "*R&PG*."

**6. SHIPPER'S COMMITMENT AND LIQUIDATED DAMAGES**

Any minimum volume requirements will be stated in the TSA or other written attachments or amendments hereto. If BNSF discontinues service for any lane covered by this Contract, volume requirements will be adjusted accordingly. Upon request, BNSF may audit Shipper's shipping documents to verify that certification is correct. The Shipper agrees to retain such records for three (3) years after the close of each period, as defined in the TSA or other written attachments or amendments hereto, and this requirement shall survive the termination of this Contract.

If Shipper fails to meet any minimum volume requirement of this Contract during any Period, Shipper will pay BNSF, in addition to the freight charges that have already been assessed pursuant to this Contract, the amount specified set forth in this Contract or the TSA as liquidated damages. Shipper acknowledges that such payments are not a penalty or forfeiture but are liquidated damages agreed upon as a reasonable substitution for BNSF's damages which are difficult to measure. Payments to BNSF for any liquidated damages, along with the supporting calculations, will be made within thirty (30) days after the close of the period to address noted in Section 10.

**7. LOSS AND DAMAGE**

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BNSF shall not be liable for loss or damage to motor vehicles moving under this Contract unless there are transportation related inspection records (see "R&PG" Item 31) establishing that BNSF was the cause of the loss or damage. In any event, BNSF has **LIMITED LIABILITY** as provided for in the applicable "R&PG" Item 46, or successor publication(s), in effect at the time of shipment. Shipper may ship pursuant to the liability terms contained in 49 U.S.C, Section 11706 provided Shipper complies with the applicable provisions of "R&PG" Item 44, or successor publication(s), in effect at the time of the shipment.

**8. GENERAL TERMS**

This Contract with TSA represents the entire agreement between BNSF and Shipper; however, any additional terms or provisions to this Contract will be handled under either written attachments or amendments hereto, and must be signed by both BNSF and Shipper to be of legal force and effect.

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

The parties agree that the terms, data, and information developed under the scope of this Contract are confidential and shall not be disclosed by either party to any third party without the prior written consent of the other party. In the event production of the Contract is sought in any legal, administrative or legislative proceeding, both parties hereto agree to cooperate in resisting production and not to produce this Contract absent a legal order compelling such production.

This Contract shall be governed by the laws of the State of Texas without regard to its conflict of laws provision.

**9. BREACH FOR MISREPRESENTATION**

This Contract may be deemed by BNSF to have been breached by Shipper, and may be terminated by BNSF upon five (5) days written notice to the Shipper, without limitation in the event of one of the following events:

1. Shipper tenders motor vehicles for which special arrangements are required pursuant to the applicable provisions of the applicable "R&PG", or successor publication(s), in effect at the time of the shipment without prior special arrangements having been made; or
2. Shipper furnishes incorrect billing information, and it results in the assessment of lower rates and charges than would otherwise have applied.
3. If material breach occurs for thirty (30) days by Shipper and is not cured by Shipper

**10. NOTICES**

All notices given under this Contract shall be effective when received. Notices, except as otherwise provided herein, shall be in writing and shall be delivered to the party entitled to receive the same by hand, fax, or by U.S. Mail, addressed as follows:

BNSF Automotive Department	<Shipper>
P.O. Box 961065	<Address>
Fort Worth, TX 76161-0065	<City State ZIP>
Telephone: 1-888-428-2673	Telephone
Fax: 817-352-7151	Fax:

These addresses may be changed by giving written notice in the manner provided above. Any notice pertaining to matters of an emergency or any operating nature may be given by any reasonable means. If given by telephone, telegraph or orally, the notice shall be confirmed in writing as soon as practicable, if requested by party receiving notice.

**11. CANCELLATION OF PREVIOUS CONTRACT(S)**

Upon the effective date of this Contract any other Contract covering traffic moving under this Contract is terminated, provided, however, that neither Shipper nor BNSF is released from any obligation that accrued prior to the date of termination of that Contract, including without limitation, the making of any and all payments due thereunder.

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**IN WITNESS THEREOF**, this Contract is signed by BNSF and **<Shipper>**.

**BNSF Railway Company**

**<Shipper>**

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

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

Name (printed): \_\_\_\_\_

Name (printed): \_\_\_\_\_

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

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

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

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

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**\*Transportation Service Agreement\***

Effective Date:

Expiration Date:

**CUSTOMER**

*(Customer name)* is the Party responsible for the freight charges. Freight bills will be directed to *(Customer address)*  
*(Customer name)* is the Party entitled to the price(s). *(Customer address)*  
*(Customer name)* is the Party who is designated to receive either notifications of a price authority, amendments, revisions or supplements, or escalations, or matters pertaining to a Force Majeure or other matters of an emergency or operating nature. *(Customer address)*.  
*(Customer name)* is a signature Party to the contract. *(Customer address)*  
BNSF RAILWAY CO is a signature Party to the contract. PO BOX 961069 Fort Worth, TX 76161-0069

**EXHIBIT**

- Freight charges must be *(prepaid or collect or both)*
- Price applies in US Funds.
- Prices in this Contract alternate with other Contracts.
- The price document number, correct address and patron code must be shown on the bill of lading to insure accurate billing.
- *(Other Conditions)*

**COMMODITY DEFINITIONS**

*(Commodity Code (STCC) and Commodity Description.)*

**MATRIX 1**

Origin	Destination	Base Rate	Commodity	Equipment	Route

Matrix 1 DEFINITIONS

Commodity  
*(Commodity Description)*

Equipment  
*(Equipment Descriptions)*

Calculation Units  
*(Calculation Units)*