

B.M.C. 85

Approved by OMB  
2126-0017

FILER ICC  
ACCOUNT NO. 25535

License No.  
MC **330163**

PROPERTY BROKER'S TRUST FUND AGREEMENT UNDER 49 U.S.C. 13906  
OR NOTICE OF CANCELLATION OF THE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That we **SWAN TRANSPORTATION SERVICES, LTD.**  
(Broker)

of **Mail: P. O. Box 4010, Tyler, TX 75712**  
**Bus: 815 Rice Road, Tyler, TX 75703** as TRUSTOR (hereinafter called Trustor)  
(Street) (City) (State) (Zip)

and **U. S BANK, N.A.**, a financial institution created and existing under the laws of  
(Name of Trustee)

**the United States of America** as TRUSTEE (hereinafter called Trustee)  
(State or District of Columbia)

hold and firmly bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

WHEREAS, the Trustor is or intends to become a Broker pursuant to the provisions of the Title 49 U.S.C. 13904, and the rules and regulations of the Federal Motor Carrier Safety Administration relating to insurance or other security for the protection of motor carriers and shippers, and has elected to file with the Federal Motor Carrier Safety Administration such a Trust Fund Agreement as will ensure financial responsibility and the supplying of transportation subject to the ICC Termination Act of 1995 in accordance with contracts, agreements, or arrangements therefore, and

WHEREAS, this Trust Fund Agreement is written to assure compliance by the Trustor as a licensed Property Broker of Transportation by motor vehicle with 49 U.S.C. 139069b), and the rules and regulations of the Federal Motor Carrier Safety Administration, relating to insurance or other security for the protection of motor carriers or shippers, and shall inure to the benefit of any and all motor carriers or shippers to whom the Trustor may be legally liable for any of the damages herein described.

NOW, THEREFORE, the trustor and trustee, to accomplish the above, agree as follows:

1. Trustee agrees that payments made pursuant to the security provided herein to shippers and motor carriers pursuant to this Agreement will be made exclusively and directly to shippers or motor carriers that are parties to contracts, agreements or arrangements with Trustor.
2. Trustee agrees that the protection afforded to shippers and motor carriers hereby will continue until any and all claims made by shippers or motor carriers for which Trustor may be legally liable have been settled or until the funds deposited by Trustor pursuant to this Agreement have been exhausted, whichever comes first.
3. The parties hereto acknowledge and certify that said Trustee shall exclusively manage the security and trust fund, as herein set forth, and shall have legal title to the security and trust fund, pursuant to the terms and conditions as set forth in this Agreement. Further, the parties hereto, and the said Trustee, as evidenced by their signatures to this agreement, acknowledge and certify and (a) said Trustee, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustor, and (b) said Trustor, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustee.
4. Trustee acknowledges the receipt of the sum of Ten Thousand Dollars (\$10,000.00), to be held in trust under the terms and conditions set forth herein.
5. Trustee may, within its sole discretion, invest the funds comprising the corpus of this trust fund consistent with its fiduciary obligation under applicable law.
6. Trustee shall pay, up to a limit of Ten Thousand Dollars (\$10,000.00) directly to a shipper or motor carrier any sum or sums which Trustee, in good faith, determines the Trustor has failed to pay and would be held legally liable by reason of Trustor's failure to perform faithfully its contracts, agreements, or arrangement for transportation by authorized motor carriers, made by Trustor while this agreement is in effect, regardless of the financial responsibility of lack thereof, or the solvency or bankruptcy, of Trustor.
7. In the event that the trust fund is drawn upon and the corpus of the trust fund is a sum less than Ten Thousand Dollars (\$10,000.00), Trustor shall, within thirty (30) days, replenish the trust fund up to Ten Thousand Dollars (\$10,000.00) by paying to the Trustee a sum equal to the difference between the existing corpus of the trust fund and Ten Thousand Dollars (\$10,000.00).
8. Trustee shall immediately give written notice to the FMCSA of all lawsuits filed, judgments rendered, and payments made under this trust agreement and of any failure by Trustor to replenish the trust fund as required herein.
9. This agreement may be canceled at any time upon thirty (30) days written notice by the Trustee or Trustor to the FMCSA on the form printed at the bottom of this agreement. The thirty (30) day notice period shall commence upon actual receipt of a copy of the trust fund agreement with the completed notice of cancellation at the FMCSA's Washington, DC office. The Trustee and/or Trustor specifically agrees to file such written notice of cancellation.

10. All sums due to the Trustee as a result, directly or indirectly, of the administration of the trust fund under this agreement shall be billed directly to Trustor and in no event shall said sums be paid from the corpus of the trust fund herein established.

11. Trustee shall maintain a record of all financial transactions concerning the Fund, which will be available to Trustor upon request and reasonable notice and to the FMCSA upon request.

12. This agreement shall be governed by the laws of the State of Pennsylvania, to the extent not inconsistent with the rules and regulations of the FMSCA.

This trust fund agreement is effective the 22nd day of August, 2004, 12:01 a.m., standard time at the address of the Trustor as stated herein and shall continue in force until terminated as herein provided.

Trustee shall not be liable for payments of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements made by the Trustor for the supplying of transportation after the cancellation of the Agreement, as herein provided, but such cancellation shall not affect the liability of the Trustee for the payment of any such damages arising as the result of contracts, agreements, or arrangements made by the Trustor for the supplying of transportation prior to the date such cancellation becomes effective.

IN WITNESS WHEREOF, the said Trustor and Trustee have executed this instrument on the 3rd day of May, 2007

TRUSTOR

TRUSTEE

Name SWAN TRANSPORTATION SERVICES, LTD.

Name U. S. BANK, N.A. c/o TIA Services, Inc. – Trust Administrator

Address Mail: P. O. Box 4010, Tyler, TX 75712  
Bus: 815 Rice Road, Tyler, TX 75703

Address P. O. Box 81860, Las Vegas, NV 89180  
2650 Lake Sahara Dr. #200, Las Vegas, NV 89117

Telephone No. (903) 533-4086

Telephone No. (888) 231-4453

By Swan Freight Brokers, Inc, General Partner  
Stan Riley, President

By U. S. Bank – Vice President

Witness Douglas H. Cordell, Vice President

Witness David P. Carney  
Trust Administrator

Only financial institutions may qualify to act as Trustee. Trustee, by the above signature, certifies that it is a financial institution and has legal authority to assume the obligations of Trustee and the financial ability to discharge them.

NOTICE OF CANCELLATION

THIS IS TO ADVISE THAT THE ABOVE BROKER TRUST FUND AGREEMENT EXECUTED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ IS HEREBY CANCELLED AS SECURITY IN COMPLIANCE WITH THE FMCSA SECURITY REQUIREMENTS UNDER 49 U.S.C. 13906(b) AND 49 CFR 387.307, EFFECTIVE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE TRUSTOR, PROVIDED SUCH DATE IS NOT LESS THEN THIRTY (30) DAYS AFTER THE ACTUAL RECEIPT OF THIS NOTICE BY THE FMCSA.

\_\_\_\_\_  
DATE SIGNED

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE OF TRUSTEE OR TRUSTOR