

# **THE BID FREIGHT NETWORK MEMBERSHIP AGREEMENT**

**YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BEFORE ENTERING THIS WEBSITE. YOUR USE OF THIS WEBSITE AND SOFTWARE INDICATES YOUR ACCEPTANCE OF THIS AGREEMENT. USE OF THE SERVICES PROVIDED ON THIS WEBSITE ARE RESTRICTED TO BID FREIGHT GLOBAL NETWORK MEMBERS.**

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## 1. INTRODUCTION

## 1.1 The Bid Freight Network

### 1.1.1 General Description

**The Bid Freight Network is a Website at which Shipper Members can contract with Carrier Members for Transportation Services. The Website is managed and administered by Bid Freight Global Inc. (BFG). Use of the Bid Freight Network is subject to the terms and conditions contained in this Agreement.**

### 1.1.2 Services Provided Members

**Services offered by BFG to the Bid Freight Network Members include enrolment of Shipper and Carrier Members, billing and payment of Freight Charges, and maintenance of the Website. Members are licensed to use BFG proprietary Software, while conducting their business on the Website. Other services may be added if BFG, in its sole discretion, determines there is sufficient demand.**

### 1.1.3 Disclaimer

**BFG will endeavor to ensure that all Members are properly enrolled, and that the Website is operational twenty-four (24) hours a day, seven (7) days a week. BFG will disqualify Members who are unwilling or fail comply with the terms and conditions of this Agreement.**

**HOWEVER, BFG CAN NOT GUARANTEE, REPRESENT, OR WARRANT:**

- (1) THAT INFORMATION PROVIDED BY MEMBERS IS TRUE, COMPLETE, ACCURATE, OR RELEVANT;**
- (2) THAT MEMBERS ARE CAPABLE OF PERFORMING THEIR DUTIES UNDER THIS AGREEMENT;**
- (3) THAT MEMBERS WILL PERFORM THEIR DUTIES UNDER THIS AGREEMENT;**
- (4) THE AMOUNT OF REVENUE, PROFIT OR SAVINGS THAT MEMBERS CAN OBTAIN BY USING THE WEBSITE;**

**(5) THE NUMBER OF MEMBERS USING THIS WEBSITE, OR THE VOLUME OF SHIPMENTS OR TRUCK CAPACITY AVAILABLE ON THE WEBSITE.**

**BFG IS NEITHER A SHIPPER NOR A CARRIER, AND DOES NOT UNDERTAKE TO PROVIDE MEMBERS WITH LOADS OR TRANSPORTATION SERVICES. BFG DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT TRANSPORTATION SERVICES ARRANGED FOR ON THE WEBSITE WILL BE PERFORMED, AND THEREFORE ACCEPTS NO RESPONSIBILITY WHATSOEVER FOR LOST, DAMAGED OR DELAYED CARGO. BFG IS NOT A BROKER. BFG DOES NOT HOLD ITSELF OUT AS A PROVIDER OF TRANSPORTATION SERVICES. BFG IS AN APPLICATION SERVICE PROVIDER, AND IT PROVIDES THAT SERVICE FOR ITS MEMBERS.**

## **1.2 Definitions**

**1.2.1 Agreement-** the version of the Bid Freight Network Membership Agreement posted on the Website at the time Transportation Services are provided.

**1.2.2 Cargo-** Property, or any other item, posted for transportation pursuant to this Agreement.

**1.2.3 Cargo Claim-** a claim for loss, damage or delay to any shipment of Cargo posted for transportation pursuant to this Agreement.

**1.2.4 Carrier-** a person, corporation or other entity, who contracts to provide Transportation Services pursuant to this Agreement and/or a person, corporation or other entity, other than a motor carrier, or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds out by solicitation, advertisement or otherwise as selling, providing or arranging for, transportation by motor carrier for compensation.

**1.2.5 Dollars-** currency of The United States of America or Canada or Mexico as applicable.

**1.2.6 Fee-** any amount of money charged by BFG for providing services pursuant to this Agreement.

- 1.2.7 Freight Charges-** the amount of money agreed to be charged for Transportation Services between the Shipper Member and Carrier Member pursuant to this Agreement.
- 1.2.8 Good Standing-** a Member who has not been disqualified.
- 1.2.9 Load-** a shipment of Cargo offered for transportation.
- 1.2.10 Member-** a Shipper, or Carrier who has been accepted by BFG as a user of the Website, and has entered into and agreed to the terms and conditions of this Agreement and is in Good Standing and not disqualified by BFG.
- 1.2.11 Payer-** a person, corporation or other entity, who is invoiced for Freight Charges.
- 1.2.12 Parties-** include BFG and Members.
- 1.2.13 Released Valuation-** Maximum liability of a Carrier Member for loss, damage, or delay of Cargo transported pursuant to this Agreement.
- 1.2.14 Shipper-** a person, corporation or other entity, who posts Cargo for transportation, and who is ultimately responsible for payment of Freight Charges.
- 1.2.15 Software-** intellectual property provided to Members by BFG including manuals, printed materials, and computer language, programs, applications, and code.
- 1.2.16 Transportation Services-** Services, including transportation, warehousing, and other accessorial services, provided by a Carrier Member pursuant to this Agreement.
- 1.2.17 Website-** the Bid Freight Network available to Members on the Internet.

### 1.3 Membership

**Membership in the Bid Freight Network is open to all enrolled Shippers and Carriers. To be enrolled a Shipper or Carrier must (1) submit a membership application to the BFG and by submission of such membership application agrees to be bound by the terms and conditions of the Agreement, (2) meet any other requirements BFG in its sole discretion may determine are required from time to time. Applicants who**

have submitted a membership application that BFG determines are qualified will be made Members. A Member may be disqualified from membership if it fails to perform its duties and obligations pursuant to this Agreement, fails to make regular use of the Website, or for whatever other reason BFG as site administrator finds appropriate. A Member who is disqualified will forthwith upon such disqualification, no longer be entitled to use the Website, however, such disqualified Member will remain bound by the terms and conditions of the Agreement.

1.3.1 Application- Any Shipper or Carrier seeking to become a Member of the Bid Freight Network must submit a membership application to BFG at its Website [www.bidfreight.com](http://www.bidfreight.com) for BFG's consideration. FOR CUSTOMER SERVICE CALLTOLL FREE NUMBER 1-877-661-6699. The membership application is available on line at [www.bidfreight.com](http://www.bidfreight.com). The application includes a Member profile sheet, and an offer of agreement. Carrier member applicants are required to provide particulars of insurance which such Carrier Member warrants and represents to be current, up to date, and accurate in all respects. BFG may, at its sole discretion, require additional information beyond that set out in the membership application prior to or after acceptance of the Member's application. BFG's acceptance of Member's application shall and does bind the Member to the terms and conditions of this Agreement.

1.3.2 Agreement- If BFG at its sole discretion determines that the applicant is qualified, it will accept the application and the applicant will be notified through the internet by way of e-mail of the acceptance of its application This Agreement shall be effective upon BFG's acceptance of the applicant as a Member and providing to such accepted Member with a BFG member number, password and user "ID" through the internet by way of e-mail. The application submitted by the applicant and BFG acceptance of the applicant for membership as above mentioned constitute an electronic Agreement between the Parties. This Agreement will define and govern the

**relationship between the Member and BFG and other Members of the Bid Freight Network. This Agreement is deemed, as between the Parties, as having been entered into in Frisco, Texas.**

**1.3.3 Member Number- Each new Member upon acceptance by BFG as a Member, will be provided with a BFG member number, including a password and user "ID", which is required to sign-on to the Website to conduct business. The member number, password and user "ID" is to be kept confidential by the Member. BFG takes reasonable care to ensure that all member numbers, password and user "ID" remain confidential, however, it is each Member's sole responsibility to ensure and keep its member number, password and user "ID" confidential, safe and secure, and to report any suspected breach of security to BFG. BFG is not responsible for any loss or damage suffered by Member resulting from disclosure of the Member's BFG member number, password and/or user "ID". Each Member, as between the Parties, will be responsible for any misuse of its member number, password and/or user "ID".**

## **2. Rights, Privileges, and Duties of Membership**

### **2.1 Shipper Members**

**2.1.1 RIGHTS-The Shipper Member, in Good Standing, shall be entitled to access the Website, and shall have the rights and privileges of membership outlined in this Agreement.**

**2.1.2 TENDER FREIGHT- The Shipper Member shall be responsible for the proper packing, marking and labeling of Cargo for shipment, and for providing the Carrier Member with proper description of Cargo and shipping instructions for proper handling of Cargo. The Shipper Member will be responsible for tendering the Cargo to the Carrier Member. The Shipper Member will advise the Carrier Member prior to tender if the Cargo is dangerous, hazardous or of extraordinary value. The Shipper Member shall be responsible for confirming that the Carrier Member's insurance is**

**effective and sufficient for the load. The Shipper Member shall be responsible for loading and securing the Cargo to the conveyance, unless otherwise specified at the time a Load is posted.**

**2.1.3 RECEIVE FREIGHT-The Shipper Member shall be responsible for ensuring that tendered Cargo, including returned Cargo, is received from Carrier Member, unless otherwise specified at the time a Load is posted.**

**2.1.4 PAYMENT-The Shipper Member is responsible for and will pay all BFG Fees for services and Freight Charges for Transportation Services provided at Shipper Member's request pursuant to this Agreement.**

**2.1.5 GOOD FAITH-The Shipper Member warrants and represents it will deal with Carrier Members and BFG in utmost good faith, and will fully cooperate with Carrier Members and BFG in transacting business pursuant to this Agreement. Shipper Member will comply with all BFG requests for information and payment instructions.**

**2.1.6 COMPLY WITH RULES-The Shipper Member warrants and represents that it will comply with all Bid Freight Network rules.**

**2.1.7 INDEMNIFY BFG-THE SHIPPER MEMBER WILL INDEMNIFY, DEFEND, AND HOLD BFG, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES HARMLESS FROM AND AGAINST ANY AND ALL LAW SUITS, CLAIMS, FINES, COSTS, LOSSES, LIABILITIES OF ANY NATURE, PROCEEDINGS, DEMANDS, DAMAGES, AND EXPENSES (INCLUDING INTEREST, PENALTIES, TAXES, DUTIES, FINES, LEVIES, FEES, ASSESSMENTS, AND ATTORNEY'S FEES) IN ANY MANNER, RESULTING FROM OR ARISING, DIRECTLY OR INDIRECTLY, FROM ITS USE OF THE BID FREIGHT NETWORK, INCLUDING ITS CONTRACTING FOR TRANSPORTATION SERVICES PURSUANT TO THIS AGREEMENT.**

## 2.2 Carrier Members

**2.2.1 RIGHTS-The Carrier Member, in Good Standing, shall be entitled to access the Website, and shall have the rights and privileges of membership outlined in this Agreement.**

**2.2.2 PICKUP-The Carrier Member will pickup tendered Cargo in a timely fashion and in accordance with the terms and conditions of this Agreement and posted load.**

**2.2.3 TRANSPORT-The Carrier Member will transport Cargo tendered to it using reasonable dispatch. Carrier Member shall at its sole cost and expense furnish adequate and suitable facilities and equipment, including tractors and trailers, and all fuel, supplies, insurance, maintenance and qualified labor necessary to provide Transportation Services on tendered Cargo pursuant to this Agreement. Carrier Member represents and warrants that any Transportation Services it provides to Shipper Members on posted Loads will be provided pursuant to this Agreement. Carrier Member represents and warrants that Carrier Member, and its contractors, employees and agents will provide Transportation Services under this Agreement in a safe, careful and prudent fashion without violating any applicable safety law or regulation. Furthermore, Carrier Member warrants and represents that Carrier Member, and its contractors, employees and agents shall, at all times, maintain required licenses, permits, bonds, authority and insurance, pay all taxes related to the operation of the vehicle and shall comply with all applicable federal, state, local and foreign laws and regulations.**

**2.2.4 DELIVERY-The Carrier Member will deliver the Cargo in a timely fashion and in undamaged condition, in accordance with the terms and conditions of this Agreement and the posted load.**

**2.2.5 RESPONSIBILITY FOR CARGO- The Carrier Member shall be responsible to Shipper Member for Cargo that is lost, damaged or delayed while in Carrier Member's possession**

**and control. Carrier Member's responsibilities in this regard are set out in greater detail in the Bid Freight Network Rules.**

**2.2.6 GOOD FAITH- The Carrier Member warrants and represents it will deal with Shipper Members and BFG in utmost good faith, and will fully cooperate with Shipper Members and BFG in transacting business pursuant to this Agreement. Carrier Member will comply with all BFG requests for information and payment instructions.**

## **2.2.7 INSURANCE**

**2.2.7.1 LIMITS-The Carrier Member shall carry and maintain in force the following minimum insurance coverage:**

- (A) Workman's compensation insurance in an amount not less than the statutory requirements for the territory in which the Transportation Services are to be performed.**
- (B) Cargo liability insurance in an amount of not less than, the greater of:
  - a. Any amount required by law; or**
  - b. as required by the posted load****
- (C) Business Auto insurance for all owned, non-owned and hired vehicles with the following limits of liability, Bodily Injury, and Property Damage or any amount beyond above amount as may be required by law.**
- (D) General liability insurance as may be required by law.**

**2.2.8 COMPLY WITH RULES- The Carrier Member warrants and represents that it will comply with all Bid Freight Network rules.**

**2.2.9 INDEMNIFY BFG- THE CARRIER MEMBER WILL INDEMNIFY, DEFEND, AND HOLD BFG, ITS OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, AND REPRESENTATIVES HARMLESS FROM AND AGAINST ANY AND ALL LAW SUITS, CLAIMS, FINES, COSTS, LOSSES, LIABILITIES OF ANY NATURE, PROCEEDINGS, DEMANDS, DAMAGES, AND EXPENSES (INCLUDING INTEREST, PENALTIES, TAXES, DUTIES, FINES, LEVIES, FEES, ASSESSMENTS, AND ATTORNEY'S FEES) IN ANY MANNER, RESULTING FROM OR ARISING, DIRECTLY OR INDIRECTLY, FROM ITS USE OF THE BID FREIGHT NETWORK, INCLUDING ITS CONTRACTING FOR TRANSPORTATION SERVICES PURSUANT TO THIS AGREEMENT.**

### **3. Bid Freight Network Rules**

**The following general rules apply to Members conducting transportation business on this Website. These rules constitute part of this Agreement.**

**3.1 BIDDING PROCESS- Members contract for Transportation Services on this Website using a "Reverse Auction" format. Under this format, a Shipper Member offers a Load for transportation, and Carrier Members are afforded an opportunity to bid on the offer of a Load, and the Shipper Member is then free to award the load to the Carrier Member of its choice which bid on that Load.**

**3.1.1 POSTING LOADS- Shipper Members will offer Loads for transportation by posting them on the Website. Each Load posting will include:**

- (A) Cargo description;**
- (B) Shipping points (origin, stops in transit, final destination);**
- (C) Shipping requirements (including pickup and delivery times, equipment and facilities);**

- (D) Loading and unloading schedules;**
- (E) Load characteristic (including weight and dimensions);**
- (F) Released Valuation; and**
- (G) Any special handling or other instructions.**

**3.1.2 BIDDING ON LOADS-** Carrier Members may bid on Loads by entering their name, contact point (person, telephone number, fax number, or e-mail address) and Freight Charges for providing Transportation Services specified in the Shipper Member's Load posting.

**3.1.3 AWARDING BIDS-** The Shipper Member may award the Load to any Carrier Member making a bid on an offered Load. The Shipper Member is not bound to accept the low bid, but may take other factors into consideration when awarding the Load. Selecting one bid over another will be at the Shipper Member's sole discretion.

**3.2 SHIPPING PROCESS-** The Shipper Member after awarding a bid on an offered Load, will contact the successful Carrier Member bidder to arrange for Transportation Services. The Transportation Services will be provided pursuant to this Agreement.

**3.2.1 DISPATCHING EQUIPMENT-** The Carrier Member will dispatch the required equipment to the location specified in Shipper Member's Load posting.

**3.2.2 PICKUP-** The Carrier Member will pickup the awarded Load in a timely fashion and in accordance with the terms and conditions of this Agreement and the posted Load at the location specified in the Carrier Member's Load posting.

**3.2.3 TRANSPORTING CARGO-** The Carrier Member will transport the Load with reasonable dispatch in the manner specified by the Shipper Member in its Load posting.

**3.2.4 DELIVERY-** The person designated by Shipper Member will receive the Load at destination.

- 3.2.5 DELAY-** Carrier Member and Shipper Member will immediately notify the other of any delay in the shipping process.
- 3.2.6 REFUSED DELIVERY-** If the person designated by the Shipper Member refuses delivery of a Load, the Shipper Member will be responsible for providing to the Carrier Member new delivery instructions, or other instructions on how to deal with the Load.
- 3.2.7 UNCLAIMED CARGO-** If no instructions are provided to a Carrier Member by a Shipper Member on a refused delivery Load of nonperishable Cargo within fifteen (15) days of Carrier Member requesting instructions, the Carrier Member may sell Cargo in a commercially reasonable fashion. Carrier Member will be deemed to have sold the Load in a commercially reasonable fashion, provided it sells the Cargo at a public auction to the highest bidder, after advertising the auction (including time and place) in a publication of general circulation in the city, town or other municipality of the Shipper Member's business location, for two weeks, and giving thirty (30) days prior written notice of the auction (including time and place) to the Shipper Member by certified mail, return receipt requested and confirmed by facsimile or e-mail. If the refused Load is perishable Cargo, the Carrier may, in order to prevent deterioration of the Load, sell the Cargo in a commercially reasonable fashion, at public or private sale, provided it has given the Shipper Member as much notice as is reasonable under the circumstances including facsimile and/or e-mail notice as applicable, and has received no immediate instructions from the Shipper Member for Load dealing with the refused delivery Load.

### **3.3 Cargo Loss, Damage, and Delay**

- 3.3.1 LIABILITY-** Carrier Member shall be liable for lost, damaged, or delayed Cargo. Carrier Member shall not be liable for special or consequential damages

related to such loss, damage or delay. Carrier Member shall not be liable for loss, damage, or delay to the Cargo resulting from an act of god, act of a public enemy, act of public authority, or act or omission of the Shipper Member or Shipper's agent, or the nature, defect or inherent vice of the Cargo, where Carrier Member is free from negligence relative thereto.

**3.3.2 MEASURE OF DAMAGES-** The measure for loss, damage or injury to Cargo shall be the lesser of (1) one hundred thousand (\$100,000) dollars, (2) the Released Valuation or (3) the actual repair or replacement cost of Cargo at destination. The cost of repair or replacement shall include all reasonable expenses incurred in the inspection, recovery and storage of lost, damaged or delayed Cargo and all taxes related thereto, but shall not include special or consequential damages. The Carrier Member will be entitled to the Cargo salvage, or a credit for salvage value, where Carrier Member reimburses Shipper Member for replacement cost of Cargo, which is lost or damaged beyond reasonable repair.

**3.3.3 NOTICE-** As a condition precedent to recovery for lost, damaged or delayed Cargo the Shipper Member must file a written notice of claim with the Carrier within thirty (30) days (or such lesser or longer time period as may be stipulated in the applicable insurance coverage related to the Cargo loss, damage or delay) of the date the Load was delivered, or ought to have been delivered. Written notice of claim by the Shipper Member shall specify the nature of the claim, including a demand for payment, and information sufficient for Carrier Member to identify the Load. Shipper Member's failure to file a written notice of claim with the Carrier Member within the time stipulated herein shall act as a bar against recovery for lost, damaged or delayed Cargo. A notation on a delivery receipt or other shipping document is not sufficient to constitute a written notice of claim to the Carrier Member.

- 3.3.4 NO OFFSET- Shipper Member shall not have a right to offset any claim it might have against Freight and Other Charges ordinarily payable under this Agreement, except a Shipper Member may withhold payment on a Load of Cargo which was damaged, or lost where BFG has not prepaid Freight Charges to Carrier Member for transporting that Load of Cargo.**
- 3.3.5 CLAIMS HANDLING- Carrier Member will pay or dispute any claim made by Shipper Member within Thirty (30) days after a written notice of the claim is received by Carrier Member pursuant to clause 3.3.3 from a Shipper Member.**

### **3.4 Freight Payment**

- 3.4.1 FREIGHT BILL- Carrier member will forward an electronic or paper freight bill to Shipper Member, or Payer providing satisfactory proof of delivery of the load in accordance with the terms and conditions of this agreement. The freight bill will be for the amount of the Freight Charges set out in the accepted bid, as modified if applicable. Members represent and warrant to BFG that if additional, or different Transportation services are provided by the Carrier Member to the Shipper Member, the Members will immediately notify BFG of the change so that the Freight Charges and BFG transaction Fees are amended to reflect such change in Transportation services provided. Freight Charges may be increased on notice from the Shipper Member. Freight Charges may be decreased on notice from the Carrier Member.**
- 3.4.2 PAYMENT TO CARRIER- The shipper member will pay the Carrier member in accordance with the terms and conditions of this Agreement. A clear delivery receipt will be treated as prima facie evidence that the Transportation Services were provided, unless there is reasonable factual or other circumstances to set aside the above presumption related to the delivery receipt evidence. However, it is understood that what**

**constitutes satisfactory proof of delivery is left to BFG's sole discretion.**

**BFG is an information platform only and takes no responsibility for payment to the Carrier member. Acceptance of a bid is a binding Carrier and Shipper agreement.**

**3.4.3 COLLECTION FROM SHIPPER- Shipper Member shall remit, or shall have Payer remit Freight Charges and transaction Fees to Carrier member or designated agent or assign, within thirty (30) days of the date the applicable Transportation Services were completed.**

#### **4 Back solicitation-**

- 4.1 Members represent and warrant to BFG that Transportation Services on any posted Load, provided by Carrier Members or their affiliates will be transacted through the Website. No Carrier Member or its affiliates shall back solicit a posted Load. No Member will engage in any activity or otherwise circumvent BFG's billing system to evade any transaction Fees and other charges ordinarily payable to BFG.**
- 4.2 BFG will be entitled to a transaction Fee on any back solicited Load. The transaction Fee shall be in an amount equal to the Freight Charges paid to the Carrier Member or its affiliate for Transportation Services provided on that Load. The Shipper Member and Carrier Member will both be jointly liable for the transaction Fee. The transaction Fee will be paid to BFG within Ten (10) days of invoicing by BFG in accordance with the fee schedule set out in clause 3.5.1.**

#### **5 Software**

**This site contains copyrighted Software. Members have a non-exclusive license to use the Software for the sole purpose of**

transacting their transportation business on the Website in accordance with the terms and conditions of this Agreement. Members are not to alter or modify the Software nor attempt to do so. Members are not to attempt to reverse engineer the software and cannot give anyone else permission to alter, modify or reverse engineer the Software or attempt to do so. UNDER NO CIRCUMSTANCES ARE MEMBERS LICENSED TO SELL, DISTRIBUTE, LICENCE OR OTHERWISE DEAL WITH THE SOFTWARE EXCEPT AS SPECIFICALLY SET OUT IN THIS AGREEMENT. THE SOFTWARE AND RELATED APPLICATION SERVICES ARE OFFERED "AS IS," "AS AVAILABLE," AND WITHOUT WARRANTIES AND/OR REPRESENTATIONS AS TO PERFORMANCE OR MERCHANTABILITY OR ANY OTHER WARRANTIES AND/OR REPRESENTATIONS WHETHER EXPRESSED OR IMPLIED. NO WARRANTY AND/OR REPRESENTATION OF FITNESS FOR A PARTICULAR PURPOSE IS OFFERED. THE USER ASSUMES THE ENTIRE RISK OF USING THE SOFTWARE. ANY LIABILITY OF BFG WILL BE LIMITED EXCLUSIVELY TO RESTORING ANY LOST DATA, OR REFUNDING FEE'S PAID BFG FOR ANY TRANSACTION ON THE WEBSITE EFFECTED BY ANY MALFUNCTION CAUSED BY THE BFG SOFTWARE OR BFG'S HARDWARE. BFG IS THE SOLE DETERMINANT OF THE CAUSE OF ANY MALFUNCTION.

## 6. Assignment

**BFG may, at its sole discretion, assign its rights under this Agreement, including the right to collect Fees and Freight charges. A Member may not assign its membership.**

## 7. Use of Contractors

**BFG at its sole discretion, may hire subcontractors to assist it in providing, all or part, of the services it offers to Members from time to time.**

## 8. Arbitration and Limitation

**8.1 Arbitration- Any dispute between the Parties (including their employees, officers, directors, agents, and**

representatives), or any claim one Party might make against another Party arising, directly or indirectly, under this Agreement which is not resolved by negotiation within 90 days after the dispute arose shall be submitted to the American Arbitration Association for arbitration. The arbitration shall be governed by the rules of the American Arbitration Association and any arbitration award shall be binding on the Parties. Each party shall be responsible for and pay for its own costs related to the Arbitration including attorney fees. Except by way of indemnification if applicable, no Party will be awarded punitive or exemplary damages, or damages for emotional or mental distress.

8.2 Any claim arising, directly or indirectly, under this Agreement shall be brought within one (1) year from the date the claim first arose. If the claim is not made and submitted to arbitration within that time period it will be deemed time barred.

## 9. Choice of Law

9.1 **Governing Law-** The laws of the United States of America, and the State of Texas will govern the construction and interpretation of this Agreement and performance of the Parties.

9.2 **Conflict-** Where there is a conflict between this Agreement and a bill of lading, tariff, contract, schedule, rate sheet or other shipping document, the terms and conditions of this Agreement shall prevail.

## 10. Modification

10.1 This Agreement constitutes the entire agreement between the Members on the one hand, and BFG, on the other. This Agreement supersedes any prior

**transportation agreements in effect between Members, on the one hand, and BFG, on the other. This Agreement can be changed or modified by BFG, at its sole discretion, by publishing a change or modification ( or new version) to this Agreement on the Website, subject to the following limitations:**

**(A) Any increase its Fees will be effective on no less than thirty (30) days publication notice on the Website;**

**(B) No change or modification will be made on a retroactive basis.**

**(C) Any change or modification, except an increase in fees, will be immediately effective on Loads posted on the Website after the change or modification is published on the Website, and will not be effective as to posted Loads that have been awarded to a Carrier Member by a Shipper Member as at the time of the posting of the change or modification on the Website.**

**10.2 A Member's use of the Website after this Agreement is changed or modified by BFG constitutes acceptance of the change or modification to this Agreement by such Member.**

**DATED** this 13<sup>th</sup> day of November, 2000.

Accepted by submission of a membership application by:

**MEMBER**

Accepted by acceptance of Member and provision of BFG Member number including a password and user "ID" to Member by:

**BID FREIGHT GLOBAL INC.**