



CONTRACTUAL TERMS & CONDITIONS FOR A PERSONALLY OWNED VEHICLE

THE TERMS & CONDITIONS OF THE COMPLETE CONTRACT FOR THE TRANSPORTATION OF A PERSONALLY OWNED VEHICLE FULLY APPLY WHEN THE CUSTOMER CONTRACT/ORDER FORM IS FULLY COMPLETED & SIGNED.

THE TERMS & CONDITIONS ARE:

WHEREAS EVERGREEN is a Michigan Limited Liability Company organized and existing under the laws of the State of Michigan; and

WHEREAS EVERGREEN is engaged in the business of coordination of vehicle transportation from vehicle manufacturers, assembly plants, ports, rail distribution centers, auctions, marshaling yards, terminal distribution centers, common dealerships, private locations and/or private individuals to a destination as selected by the **CUSTOMER**; and

WHEREAS CUSTOMER is the legally registered owner of a vehicle and seeks to engage **EVERGREEN** to arrange for the transportation of the vehicle as described in a QUOTE received and acknowledged by **CUSTOMER**, a copy of the QUOTE is attached hereto and incorporated by reference into this Contract; and

WHEREAS CUSTOMER expressly understands and agrees that vehicle coordination service shall consist of loading, transportation and unloading of the aforementioned vehicle at the destination selected by the **CUSTOMER**; and

WHEREAS EVERGREEN and **CUSTOMER** agree that the provisions under the Uniform Electronic Transaction Act (MCL 450.831, *et seq.*) may be utilized to conduct and complete this Contract by **EVERGREEN** and **CUSTOMER**; and

WHEREAS CUSTOMER understands and expressly represents and agrees that all of the terms and conditions made by the **CUSTOMER** have been relied upon by **EVERGREEN** and has induced and caused **EVERGREEN** to enter into this Contract.

NOW THEREFORE, in consideration of the covenants and stipulations set out herein agree as follows:

1. **SUBJECT MATTER OF THIS AGREEMENT.** The subject matter of this Contract is for **EVERGREEN** to coordinate the transportation of the **CUSTOMER'S** vehicle from the place of pickup of the vehicle as designated by

the **CUSTOMER** by a CARRIER as selected by **EVERGREEN** and delivery by the CARRIER to the destination as selected by **CUSTOMER**. The place of pickup of the vehicle and the destination of the vehicle is set forth in the attached QUOTE. The dates and times of pickup and delivery of the vehicle are also set forth in the attached QUOTE. **CUSTOMER** understands and agrees that the date and time for pickup and delivery are the estimated dates and times. **CUSTOMER** understands and agrees there are no express or implied representations with respect to the pickup and delivery dates and times.

2. **CONSIDERATION TO BE PAID BY THE CUSTOMER TO EVERGREEN FOR THE SERVICE TO BE PROVIDED BY EVERGREEN FOR THE CUSTOMER.** The amount set forth in the attached QUOTE shall be paid by the **CUSTOMER** to **EVERGREEN** for the transportation of the **CUSTOMER'S** vehicle. Payment shall be by cash, certified check, cashier's check, credit card or PayPal. The payment of the sum as set forth in the QUOTE shall be paid and received by **EVERGREEN** prior to the pickup of the **CUSTOMER'S** vehicle.

3. **DUTIES AND OBLIGATIONS OF CUSTOMER.** The following are duties and obligations of **CUSTOMER**:

a. To faithfully perform all of the terms and conditions required of the **CUSTOMER** in this Contract.

b. To prepare the **CUSTOMER'S** vehicle as described in the attached QUOTE by:

i. Removing and/or properly securing all batteries, loose parts, fragile or protruding accessories, luggage, ski and bicycle rack assemblies (all factory installed racks need not be removed) after-market hood scoops, shields, grill and hood covers, long hanging spoilers, removable antennas, and any and all other non-factory options and installations.

ii. Disarm any alarm systems and provide the CARRIER with the tools and/or keys to disarm the alarm system.

iii. **CUSTOMER** acknowledges and agrees **EVERGREEN** shall not be liable for any and all damages and/or losses associated with **CUSTOMER'S** failure to properly prepare **CUSTOMER'S** vehicle for transport as set forth in this Contract.

iv. **CUSTOMER** acknowledges and agrees to waive and release any claim against **EVERGREEN** and the CARRIER for minor or incidental damages to the vehicle such as, but not limited to, scratches, chips, dents directly or indirectly associated with normal road conditions, ordinary wear and tear, damages or losses directly or indirectly caused by any leaking fluids such as, but not limited to, battery acid and cooling system solution, damage or losses directly or indirectly related to mechanical malfunctions, electrical system malfunctions, exhaust assembly, frame alignment, tire damage, suspension damage, convertible top damage, and glass damage to the **CUSTOMER'S** vehicle.

v. **CUSTOMER** understands and agrees that **EVERGREEN** and the CARRIER shall only be liable for any damage to **CUSTOMER'S** vehicle that is caused by the gross negligence or intentional misconduct by **EVERGREEN** and the CARRIER.

vi. **CUSTOMER** acknowledges and agrees that **EVERGREEN** shall not be liable directly in subrogation or by assignment to the **CUSTOMER'S** insurance company by any claims paid by **CUSTOMER'S** insurance company; **CUSTOMER** waives all rights of recovery against **EVERGREEN**, its agents, servants and employees for any and all losses, damages, or injuries of any kind or nature whatsoever to the property or persons for which the **CUSTOMER** is insured.

c. To be present at the appointed time for pick-up and delivery of the vehicle as identified in the attached QUOTE; if the **CUSTOMER'S** vehicle cannot be picked up directly to or from the **CUSTOMER'S** door for any reason, it is the **CUSTOMER'S** obligation to meet the CARRIER at the designated location selected by the CARRIER.

d. To maintain at all times automobile insurance coverage including liability, property damage, and comprehensive coverage for the vehicle as described in the attached QUOTE; to provide to **EVERGREEN** evidence from insurance company of such coverages in the amounts and coverage acceptable to **EVERGREEN**; and maintain the insurances during the entire term of this Contract.

e. To provide to **EVERGREEN** satisfactory evidence of ownership by the **CUSTOMER** of the vehicle described in the attached QUOTE prior to the pickup of the vehicle by the CARRIER.

f. To remove any and all firearms, flammable materials, explosives, contraband, and any other substances that are prohibited by state or federal government laws or regulations for transport in a motor vehicle; to remove any and all other personal items from the vehicle prior to pickup of the vehicle by the CARRIER.

g. To identify upon pickup and delivery of the vehicle as described in the attached QUOTE at the agreed upon destination by specifically noting any damage to the vehicle on the BILL OF LADING at the time of pickup and/or delivery; any claim related to noted damage upon delivery that occurred during the transportation and not noted at time of pickup must be submitted in writing to **EVERGREEN** and the CARRIER within seven (7) business days of delivery; notification to **EVERGREEN** must be provided to **EVERGREEN** email address recited above and contain the following information:

- i. Full 17-digit VIN number;
- ii. Damage location;
- iii. Type of damage;
- iv. Extent of damage;

v. Digital pictures in .jpg format showing the damage from at least two (2) different angles, with something in the foreground to illustrate scale;

vi. Two (2) verifiable estimates of repair from separate businesses (Mitchell guide is necessary);

i. To relinquish, release and waive any damage claim not noted on the BILL OF LADING or has not submitted written notice of claim, including information requested above, on a timely basis.

j. To pay the sum of \$250.00 to **EVERGREEN** in the event the vehicle becomes inoperable for any reason during the term of this Contract.

k. To INDEMNIFY, save, hold harmless, and defend **EVERGREEN** and CARRIER without disclaimer or reservation from and for any and all payments, expenses, costs, attorney's fees and for any claims or liability for losses or damages to property or injuries to persons, occasioned wholly, or in part, by and resulting from any acts or omissions by **CUSTOMER** for any cause or reason whatsoever arising out of, occasioned by or resulting from the pickup, transportation or delivery of the vehicle as described in the attached QUOTE.

4. DUTIES AND OBLIGATIONS OF EVERGREEN. The following are duties and obligations of **EVERGREEN:**

a. To faithfully perform all of the terms and conditions required of **EVERGREEN** in this Contract.

b. To provide to **CUSTOMER** proof of insurance of the CARRIER for liability, property and comprehensive insurance coverage; **CUSTOMER** acknowledges and agrees that **CUSTOMER'S** vehicle insurance coverage is primary and CARRIER insurance coverage shall be excess to **CUSTOMER'S** insurance coverage; **CUSTOMER** acknowledges and agrees that **EVERGREEN** provides no insurance coverage of any kind for **CUSTOMER'S** vehicle as described in the attached QUOTE.

c. To INDEMNIFY, save, hold harmless and defend **CUSTOMER** without disclaimer or reservation from and for any and all payments, expenses, costs, attorney's fees and for any claims or liability for losses or damages to property or injuries to persons, occasioned wholly, or in part, by or resulting from any negligent acts or omissions by **EVERGREEN** or CARRIER for any cause or reason whatsoever arising out of, occasioned by or resulting from the pickup, transportation or delivery of the vehicle described in the attached QUOTE.

5. DELIVERY AND PICKUP DATES. All pickup and delivery dates and times are estimates and are subject to change without notice due to factors of transport such as, but not limited to:

a. Traffic conditions.

b. Mechanical conditions.

c. Weather conditions.

d. Acts of God.

e. Force majeure or any particular event outside the direct or indirect control of **EVERGREEN** and/or the CARRIER.

f. Force majeure shall include but is not limited to any and all acts of God, weather conditions, acts of terrorism, acts of a public enemy, riots, strikes, labor disputes, fires, floods, explosions or any act of civil or military authorities.

g. **CUSTOMER** acknowledges and agrees that **EVERGREEN** shall not be responsible in any manner for incidental or consequential damages that the **CUSTOMER** may suffer because of the arrangement for pickup and delivery of **CUSTOMER'S** vehicle.

h. **CUSTOMER** acknowledges and agrees that **EVERGREEN** and the CARRIER have made no express or implied representations, promises or warranties with respect to pickup and delivery dates and times.

6. TERM OF CONTRACT. This Contract shall commence on the day, month and year that the **CUSTOMER** requests the QUOTE which is attached hereto; this Contract shall continue thereafter until such time as the **CUSTOMER'S** vehicle is delivered and/or picked up by the **CUSTOMER**.

7. REMEDY OF THE CUSTOMER. **CUSTOMER** acknowledges and agrees that the sole remedy available to the **CUSTOMER** will be limited to recovery under the insurance provisions provided by the CARRIER and/or the **CUSTOMER'S** secondary insurance provisions on the **CUSTOMER'S** vehicle.

8. DAMAGE LIMITATION. **EVERGREEN** and the CARRIER will not be liable to the **CUSTOMER** for any incidental, consequential or special damages such as, but not limited to, lost revenue, wages or profits; the right to recover damages within the limitations set forth in this Contract is **CUSTOMER'S** exclusive remedy as set forth in paragraph 7 of this Contract.

9. MISCELLANEOUS COVENANTS AND AGREEMENTS.

a. **Integration.** This Contract, together with any affixed schedules and exhibits constitute the entire understanding between **CUSTOMER** and **EVERGREEN** with respect to the subject matter of this Contract and supersedes any prior discussions, agreements and understandings.

b. **Choice of Law.** This Contract will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction.

c. **Choice of Forum.** **CUSTOMER** and **EVERGREEN** submit to the jurisdiction and venue of the Circuit or District Court for the County of Leelanau, State of Michigan, or if original jurisdiction can be established, the United States District Court for the Western District of Michigan, with respect to any action

arising directly or indirectly, out of this Contract or the performance or breach of this Contract. **CUSTOMER** and **EVERGREEN** stipulate that the venue referenced in this Contract is sole and exclusive.

d. **Notice.** All notices and other communications required or permitted under this Contract will be in writing and will be deemed given when delivered personally or by registered or certified mail, return receipt requested, addressed as follows:

If to **EVERGREEN** at address set forth above.

If to **CUSTOMER** at address set forth above.

e. **Waiver.** **EVERGREEN'** failure to exercise a right or remedy or **EVERGREEN'** acceptance of partial or delinquent payment will not operate as a waiver of any of **EVERGREEN'** rights or **CUSTOMER'S** obligations under this Contract and will not constitute a waiver of **EVERGREEN'** right to declare an immediate or a subsequent default.

f. **Severability.** Whenever possible, each provision of this Contract will be interpreted in such a way as to be effective and valid under applicable law. If a provision is prohibited by or invalid under applicable law, it will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of the Contract.

g. **Amendments.** The terms of this Contract may not be varied or modified in any manner, except in a subsequent writing executed by an authorized representative of **EVERGREEN** and **CUSTOMER**.

h. **Assignments.** No assignment of this Contract or of any right or obligation under this Contract will be made by either party without the prior consent of the non-assigning party. Any attempted assignment in contravention of this Contract will be void.

i. **Remedies Cumulative.** The remedies provided in this Contract will be cumulative, and the assertion by a party of any right or remedy will not preclude the assertion by such party of any other rights or the seeking of any other remedies.

j. **Successors and Assigns.** In the event of a proper assignment, this Contract will be binding upon and inure to the benefit of the parties' successors and assigns.

k. **Confidentiality.** The parties agree that the existence of this Contract and the specific terms of this Contract will remain confidential and will not be disclosed to third parties.

l. **Counterparts.** This Contract may be executed in one or more counterparts, each of which will be deemed an original Contract, but all of which will be considered on instrument and will become a binding Contract when one or more counterparts have been signed by each of the parties and delivered to the other.

m. **Titles.** The titles and headings to articles, sections or paragraph in this Contract are inserted for convenience of reference only and are not intended to effect the interpretation or construction of the Contract.

n. **Attorney Review.** The parties represent that they have carefully read this Contact and have consulted with their attorneys. The parties affirmatively state that they understand the contents of this Contract and sign this Contract as their free act and deed, that they are over eighteen years of age and mentally competent.

o. **Third-Party Beneficiaries.** This Contract will not confer any rights or remedies on any third-party, other than the parties to this Contract and their respective successors and permitted assigns.

p. **Attorney Fees.** In the event of a dispute arising out of this Contract, the prevailing party will be entitled to actual attorney fees and costs.

After reading these Contractual Terms & Conditions and you would like EVERGREEN Logistics Services, LLC to transport your personally owned vehicle, we ask that you please view, complete, sign & fax the Customer Contract/Order Form, located on our website on the Forms Page.

Should you have any questions, please contact Trish at [231-256-2218](tel:231-256-2218) / trish@evergreenlog.com

Thank You for Choosing EverGreen Logistical Services, LLC!