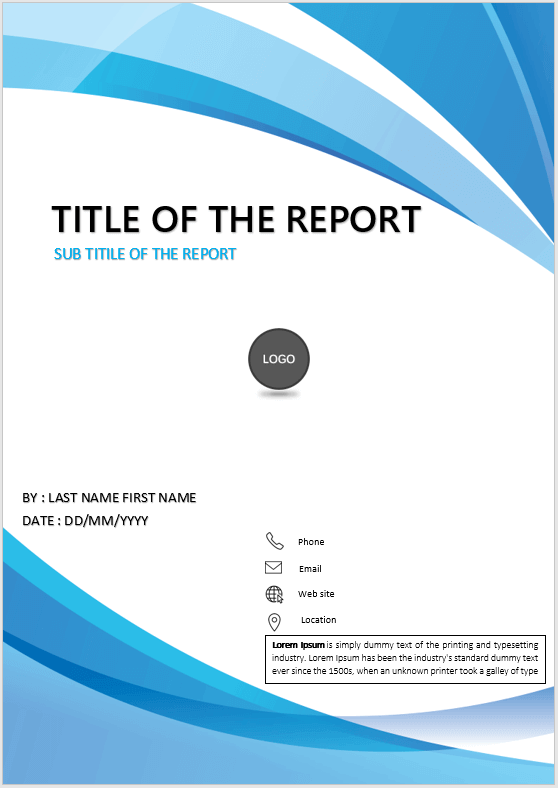
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**Location:**

**Owner(s):**

**Contact Information:**

**Date:**

***Transportation Proposal Template***

**Company Name Here**

Company Ph. No Here



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# Description

THIS Proposal is made and entered on, by and

between Acuity Specialty Products, Inc., a wholly-owned subsidiary of Acuity Brands, Inc.,

d/b/a ZEP Manufacturing, Selig Industries, Enforcer Products, National Chemical, and Armor

All Professional Products, (“Shipper”), a Delaware corporation with offices located at 1310

Seaboard Industrial Blvd., Atlanta, Georgia 30318, and

(“Carrier”), a \_\_\_\_\_\_\_\_\_\_ corporation with offices at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

# Recitals

A. Carrier is engaged in the business of transporting property by motor vehicle as a contract

carrier in interstate, intrastate and foreign commerce and desires to furnish motor contract

carrier transportation services to Shipper; and

B. Shipper desires to utilize such contract carrier services.

# AGREEMENT

**NOW, THEREFORE,** in consideration of the premises and the mutual agreements

herein and other good and valuable consideration, the receipt, sufficiency and adequacy is

acknowledged by the parties hereto, the parties agree as follows:

1. TERM.

The term of this Agreement shall commence on the date first above

written and, subject to any right to terminate this Agreement, shall remain in full

force and effect for one (1) year from the above date (“Term”). This Agreement

shall automatically renew and the Term shall be automatically extended for

successive one (1) year periods of time; provided, however, that either party may

terminate this Agreement at any time during the Term or extensions thereof upon

prior written notice to the other party, pursuant to the notice provisions below, not

less than ninety (90) consecutive days before the date of such planned

termination.

2. CARRIER’S OPERATING AUTHORITY.

Carrier represents and warrants

that it is duly qualified and currently authorized and licensed to lawfully transport,

as a motor contract carrier, pursuant to Permit No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Permit”)

issued to Carrier by the Federal Highway Administration, Department of

Transportation (“FHA,DOT”) and under all applicable federal, state and local

laws, ordinances, rules, and regulations, general commodities as well as

hazardous materials (as that term is defined in CFR Title 49, with a few

exceptions, in interstate, intrastate and foreign commerce, from, to, or between all

points in the continental United States and to lawfully provide to Shipper all of

the terms, provisions, and conditions of this Agreement. Carrier further

represents and warrants that the “Contract Authority”, attached hereto and hereby

made a part hereof by reference, is a true, correct and complete copy of the Permit

and that the Permit is in full force and effect as of the date of this Agreement and

is to remain in effect throughout the Term. Carrier shall immediately notify

Shipper, in writing, of any actual or threatened suspension, cancellation,

termination, withdrawal, modification, failure or refusal of renewal, or transfer of

any of all of Carrier’s operating authority and required licensing, the occurrence

of which shall give Shipper the right to terminate this Agreement immediately

upon giving Carrier written notice of such termination.

1. SERIES OF SHIPMENTS.

Shipper shall tender to Carrier and Carrier shall

transport a series of shipments consisting of a minimum of three (3) shipments in

each annual period during the term of this Agreement. All shipments tendered to,

and transported by, Carrier are part of this series of shipments to be deemed as

moving in contract carriage, unless specifically identified otherwise by Shipper in

writing as moving in common carriage. If during any annual period, Shipper fails

to tender the minimum number of shipments to Carrier, Shipper shall pay to

Carrier, as liquidated damages and not as a penalty, the sum of Fifty Dollars

($50.00).

## 4. SPECIAL SERVICES.

The services provided by Carrier under this Agreement are designed to meet the

distinct needs of Shipper, which may include, but not be limited to, transportation

of hazardous materials, multiple pick-ups and deliveries, telephonic confirmation

of delivery, transmission of freight bills and shipment status electronically in a

form compatible with Shipper’s computer, meeting tight shipping and receiving

schedules, spotting of equipment, C.O.D. service, circuitous route service,

specialized loading and unloading services (including, without limitation those

specified in paragraph 6 below) drivers familiar with the unloading procedures of

Shipper’s customers, short-notice service, and contract transportation charges

negotiated to meet the distinct needs of Shipper; all as set forth in Appendix B,

attached hereto and made a part hereof by reference, as may be amended from

time to time by written agreement of the parties hereto.

The parties specifically intend that any transportation conducted under this

Agreement be so conducted under contract motor carriage as defined in 49

U.S.C., Section 10102, and in compliance with all federal, state and local

environmental and hazardous materials transportation and handling laws, rules

and regulations. The parties agree that the provisions of this Agreement are

designed to meet the distinct needs of the Shipper and that this Agreement be

construed as between the parties to be a bilateral agreement which imposes

specific obligations on both Carrier and Shipper and covers a series of shipments

for a stated period of time.

## RECEIPTS AND BILLS OF LADING.

Each shipment hereunder shall be

evidenced by a receipt in such form as specified by Shipper, showing the kind and

quantity of product received by Carrier at origin, but the absence or loss of any

such receipt shall not relieve Carrier of its obligations and responsibilities with

respect to any shipment made hereunder. Such receipt shall be evidence of

receipt of such shipment in good order and condition unless otherwise noted on

the face of such receipt. In the event that Shipper elects to use a bill of lading,

manifest or other form of freight receipt or contract, any terms, conditions and

provisions of such bill of lading, manifest or other form shall be subject and

subordinate to the terms, conditions and provisions of this Agreement, and in the

event of a conflict between the terms, conditions and provisions of such bill of

lading, manifest or other form and this Agreement, the terms, conditions and

provisions of this Agreement shall govern. Upon delivery of each shipment made

by Shipper hereunder, Carrier shall obtain a receipt showing the kind and quantity

of product delivered to the consignee of such shipment at the destination specified

by Shipper, and Carrier shall cause such receipt to be signed by such consignee or

by consignee’s agent or employee.

## 6. LOADING AND DELIVERY.

Trailers will be loaded by Shipper, but Carrier

accepts the ultimate responsibility for protecting each load. Carrier is to inspect

each load prior to sealing trailer and install load locks if necessary for safe

damage free transportation. Shipper agrees not to file any claim for damage to

product unless there is evidence of negligence on the part of Carrier, including,

but not limited to, wet product, involvement of the trailer in accidents, or

improper handling by driver.

## 7. CARRIER’S OPERATIONS AND EMPLOYEES.

Carrier shall, at its sole

cost and expense, furnish all fuel, oil, tires and other parts, supplies and

equipment necessary or required for the safe and efficient operation and

maintenance of the tractors, trailers and other motor vehicles and related

equipment furnished by Carrier for the performance of its obligations hereunder

(collectively, the “Equipment”). Carrier shall pay all expenses of every nature,

including the expense of road service and repair in connection with the use and

operation of the Equipment and shall, at its sole cost and expense, at all times

during the term of this Agreement, maintain the Equipment in good repair,

mechanical condition and appearance. Carrier, at its sole cost and expense, shall

employ in the operation of the Equipment only competent, able and legally

licensed, without restriction, personnel. Carrier shall have full control of such

personnel and have the obligation to certify, in advance, as to driver’s

background, as being trained in hazardous material handling and insurable, and

otherwise, all driver’s to be used in relation to this Agreement. Carrier agrees not

to subcontract to another person or entity, Carrier’s obligations and

responsibilities under this Agreement without prior approval of such person or

entity and not to be considered an assignment of Carrier’s obligations and

responsibilities hereunder.

Carrier specifically agrees that at the time of any spill, leak, or suspected or actual

contamination, Carrier shall call Shipper’s emergency response telephone number

provided to Carrier. Without limiting the other provisions contained in this

Agreement, if Carrier does not contact the Shipper and the designated **Emergency**

**Response Provided**, if applicable, on a timely basis and act in concert therewith

to identify and contain such spill, leak, or contamination, Carrier shall be solely

responsible, without limitation, for all liability, damages, costs, and expenses

related thereto.

## 8. INDEMNITY / WARRANTIES.

Carrier shall defend, indemnify, and hold

harmless Shipper from and against all loss, damage, expense, costs, including

reasonable attorneys’ fees, fines, actions and claims for injury to persons

(including injury resulting in death) and for damage to property arising out of or

in connection with Carrier’s loading, handling, transportation, unloading, delivery

or storage of any shipment hereunder or Carrier’s failure to comply with the terms

of this Agreement; provided, however, that Carrier shall not be required to so

defend, indemnify and hold harmless Shipper for such loss or damage caused

solely by Shipper’s negligence.

Carrier (a) hereby agrees that this Agreement constitutes a contract in accordance

with all applicable FHA\DOT regulations, (b) waives any and all claims that this

Agreement does not constitute such a contract, and (c) shall indemnify and hold

harmless Shipper from and against all losses, damages, costs, and expenses in any

way based on such a claim.

The provisions of this Paragraph shall survive the termination of this Agreement.

## 9. INSURANCE.

Carrier shall procure and maintain, on all motor vehicles that

may be used in connection with services to be provided under this Agreement and

at the sole cost and expense of Carrier, liability insurance with a reputable and

financially responsible insurance carrier insuring Carrier against liability for

bodily damage (including death) and property damage in an amount not less than

$1,000,000 per occurrence and in addition, all risk cargo insurance to cover any

loss or damage to freight of Shipper while in possession of Carrier in an amount

of not less than $100,000. Any additional insurance as may be required for

contract carriers by applicable federal laws or regulations must also be carried and

remain in effect during the Term and any extensions thereof. Such insurance

must specifically cover loss or damage resulting from Carrier’s operations as a

“contract motor carrier.” Carrier shall furnish to Shipper written certificates

obtained from the insurance carrier showing that such insurance has been

procured, is being properly maintained and that the premiums therefore are paid,

specifying the name of the insurance carrier, the policy number, the expiration

date, and specifying that written notice of cancellation or modification of the

policies shall be given to Shipper at least thirty (30) days prior to such

cancellation or modification, and specifying Shipper as loss payee under the

policies. Upon request, Carrier shall provide Shipper with copies of the

applicable insurance policies.

If the coverages required herein are purchased on a “claims-made” basis,

coverage shall provide that, if the coverage is canceled, the Carrier shall have the

right to purchase a two-year reporting or discovery period. Whenever a claimsmade

policy in effect during the term of this Agreement is canceled, the Carrier

shall purchase the two-year extended reporting or discovery period. If the Carrier

fails to purchase such an extension of coverage, the Shipper shall have the right to

do so and bill the Carrier accordingly. The retroactive dates on any claims-made

policies effective during the term of this Agreement shall be identical to, or not

later than, the date of the expiration of the immediately preceding policy.

The provisions of this section shall survive the termination of this

Agreement

## 10. FREIGHT LOSS, DAMAGE OR DELAY.

Shipper shall submit to Carrier a

written claim for loss or damage to any shipment or damages due to delay in

services hereunder within nine (9) months of the date of delivery or, if no

delivery, the date of the occurrence resulting in the claim. If Carrier is given

notification by Shipper of loss of service and/or shipment solely due to actions of

Carrier and loss of service and/or freight is not corrected to Shipper’s satisfaction

within a reasonable time, Shipper may file a claim with Carrier for loss of monies

or seek satisfaction under other available remedies, with none of such action by

Shipper acting to limit Shipper’s rights of recovery and remedies under law or

equity. The parties agree that, except as provided to the contrary herein, common

carrier rules of liability shall apply with respect to freight loss, damage, or delay

claims. The measure of the loss, damage or injury shall be the Shipper’s

wholesale cost plus loss of sale commission and all other direct or indirect losses,

including but not limited to transportation costs if already paid, less reasonable

salvage value (as that term is commonly defined in the industry), if any. The

filing, processing and disposition of freight loss, damage and delay claims shall be

governed by 49 C.F.R. § 1005 et. seq. The right of Shipper to bring a civil action

against Carrier for loss or damage or delay begins after Shipper has filed a claim

with Carrier in the manner and form as required by the Interstate Commerce

Commission of Motor Common Carriers as shown in 49 C.F.R. § 1005 et. seq.

and said claim is declined in whole or in part by the Carrier. It is understood and

agreed that the filing of such written claim during the period provided above is a

condition precedent to the filing of any court action.

## 11. TERMINATION FOR DEFAULT OR INSOLVENCY.

If a petition in

bankruptcy should be filed by Carrier, or if Carrier should be adjudicated a

bankrupt, or if Carrier should make a general assignment for the benefit of

creditors, or if a receiver should be appointed on account of the insolvency of

Carrier, or if Carrier should persistently or repeatedly refuse or fail to supply

satisfactory and lawfully qualified personnel or the proper equipment or

accessories therefore or should fail to make prompt payment for materials or

labor, or persistently disregard laws, ordinances or the instructions of Shipper, or

otherwise have breached a material provision of this Agreement, Shipper may,

without obligation and without prejudice to any and all other rights and remedies

of Shipper, at law and in equity, terminate this Agreement immediately upon

giving Carrier written notice of such termination. Termination by Shipper shall

not relieve Shipper of its obligations under this Agreement arising or accruing

prior to such termination.

## 12. PAYMENTS.

The charges and payment terms for the services performed

hereunder shall be in accordance with the rates, charges and provisions set forth in

Appendix A, attached hereto and made a part hereof by reference, and any written

supplements or revisions to the content of Appendix A that are mutually agreeable

to Carrier and Shipper and signed by each party. In the event service is provided

and it is subsequently discovered that there was no applicable rate(s) or terms in

the Appendix A, or agreed upon supplements or revisions thereto, then in effect,

the parties agree that the rate paid by Shipper and collected by Carrier for such

services shall be mutually agreed upon by shipper and carrier. In no event shall

Shipper be liable for any transportation charges for which Shipper did not have

primary responsibility for payment under the circumstances surrounding the

involved shipment under the terms of this Agreement. Carrier shall have sixty

(60) days from the date of delivery of a shipment to file with Shipper for any and

all short payment or missed payment due to Carrier omission. Carrier shall have

ninety (90) days from the date of delivery of a shipment to file with Shipper for

any and all short payment or missed payment due to Shipper omission. In either

case, if notice is not received by Shipper within these time frames, as applicable,

Shipper shall thereafter no longer be responsible for such short or missed

payment(s).

Fuel surcharges must be negotiated and agreed to by both parties prior to

implementation with such fuel surcharges being specified in Appendix C attached

hereto and made a part hereof by reference, as may be amended from time-to-time

by written agreement of the parties hereto. Carrier agrees that Shipper may, in its

sole discretion, cancel such surcharges, fuel or otherwise, upon which the parties

previously agreed, thirty (30) days after Carrier’s receipt of written notice of same

from Shipper.

## 13. ASSIGNMENT / ENTIRE AGREEMENT / MODIFICATION.

Neither party

hereto may assign or transfer this Agreement, in whole or in part, except to an

affiliate under the same ownership and control of the assigning party. This

Agreement, and supplements and revisions as stated in paragraph 10 above, sets

forth the entire Agreement and understanding between the parties on the subject

matter hereof and merges prior discussions and/or negotiations between them.

Neither of the parties shall be bound by any conditions, definitions,

representations, or warranties with respect to the subject matter of this

Agreement, other than as expressly provided herein or as duly set forth on or

subsequent to the date hereof in writing, signed by a duly authorized

representative of the party to be bound thereby.

14. SEVERABILITY.

In the event any provision of this Agreement contravenes the

law, regulation, or ordinance of any city, county or state, the parties agree that

such provision shall, in such city, county, or state, be severable, and shall not

affect the remaining provisions of this Agreement or their validity or

enforceability.

## 15. NONWAIVER.

Failure of Shipper to insist upon performance of any of the

terms, conditions or provisions of this Agreement, or to exercise any right or

privilege herein, or the waiver by Shipper of any breach of any of the terms,

conditions or provisions of this Agreement, shall not be construed as thereafter

waiving any such terms, conditions, provisions, rights or privileges, but the same

shall continue and remain in full force and effect as if no forbearance or waiver

had occurred.

## 16. NOTICE.

Any notice required or permitted to be given hereunder by either

party, unless otherwise provided, shall be given in writing by sending such notice

properly addressed to the other party at the address first listed above (or such

other address designated by a party in accordance with this notice provision), by

prepaid certified or registered mail, return receipt requested, by nationally

recognized overnight delivery service overnight, or by facsimile [to (404) 603-

7760 for Shipper or (\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_ for Carrier]. All such notices shall be

deemed given upon receipt by the addressee.

## 17. INDEPENDENT CONTRACTOR / NON-EXCLUSIVITY.

This Agreement

shall not be deemed to establish a joint venture or partnership between Carrier and

Shipper. Carrier represents and warrants that it is an independent business

engaged in the ground transportation and delivery of goods in inter- and intrastate

and foreign commerce. Carrier will have sole responsibility for payment of taxes

as required under applicable federal, state and local tax laws. Carrier shall have

sole fiscal and other responsibility for the acts and compensation of its own

employees and the expenses of the conduct of its business. It is understood and

agreed between the parties hereto that this is a non-exclusive Agreement and that

Carrier shall be free to accept freight for transportation from shippers other than

Shipper and that Shipper shall be free to tender freight for transportation to

carriers other than Carrier.

## 18. ATTORNEYS’ FEES.

In the event of any arbitration or litigation involving this

Agreement, the prevailing party shall be entitled to recover from the other party

its reasonable attorney fees and costs associated with such arbitration or litigation.

19. COMPLIANCE WITH LAWS.

Carrier will comply with all applicable laws,

ordinances, rules, and regulations governing Carrier’s duties or responsibilities

under this Agreement.

## 20. FORCE MAJEURE.

Neither party will be held responsible for any delay or

failure to perform caused by wars, fires, strikes, acts of God, or other causes

beyond their reasonable control.

## 21. GOVERNING LAW / JURISDICTION.

This Agreement shall be deemed to

have been executed and entered into in the State of Georgia, and this Agreement,

and its formation, operation, and performance shall be governed, construed,

performed, and enforced in accordance with the substantive and procedural laws

of that state, without regard to principles of conflicts of laws of that state. All

suits, proceedings and other actions relating to or arising out of this Agreement shall

be brought in a federal or state court of appropriate jurisdiction that presides in

Fulton County, Georgia, and venue shall lie exclusively therein. The parties hereto

consent to personal jurisdiction and venue in any federal or state court which

presides in Fulton County, Georgia, and expressly waive the right to bring action

in, or to transfer or remove any action to, any other state or federal court

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be

executed in their respective names by their duly authorized representatives as of the date first

above written.

# SHIPPER: CARRIER:

Acuity Specialty Products, Inc.,

Division of Acuity Brands, Inc.

By: Alan M. Whitten By:

Title: Corporate Director of Transportation Title:

Address: 1310 Seaboard Industrial Blvd. Address:

Atlanta, Georgia 30318

Fax: (404) 603-7760 Fax: