



U.S. DEPARTMENT  
OF TRANSPORTATION

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Form BMC-85

Approved by OMB

2126-0017

Expires: 05/31/2012

FMCSA FILER

License No.

ACCOUNT NO. \_\_\_\_\_

MC- \_\_\_\_\_

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 Prospect Logistics Services, LLC  
*(Broker)*  
of 2977 Highway K, Suite 109 O'Fallon MO 63366  
*(Street)* *(City)* *(State)* *(Zip code)*

as TRUSTOR (hereinafter called Trustor), and UMB Bank, N.A.  
*(Name of Trustee)*

a financial institution created and existing under the laws of the United States of America  
*(State or District of Columbia)*

as TRUSTEE (hereinafter called Trustee) 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 therefor, 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 13906(b), 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 that (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 that 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 arrangements for transportation by authorized motor carriers, made by Trustor while this agreement is in effect, regardless of the financial responsibility or 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 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 in the State of Missouri, to the extent not inconsistent with the rules and regulations of the FMCSA.

This trust fund agreement is effective the 10th day of November, 2010, 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 this 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 10th day of November, 2010.

TRUSTOR	TRUSTEE
Company Name <u>Prospect Logistics Services, LLC</u>	Name of Institution <u>UMB Bank, N.A.</u>
Address <u>2977 Highway K, Suite 109</u> <u>OFallon, MO 63366</u>	Address <u>2 S. Broadway, Suite 600</u> [SEAL] <u>St. Louis, MO 63102</u>
Telephone No. <u>314-368-5501</u>	Telephone No. <u>314-612-8480</u>
<u>Randy E. Jones</u> <i>(Print Name)</i>	<u>Brian P. Krippner</u> <i>(Print Name)</i>
<u>Owner</u> <i>(Signature and Title)</i>	<u>Vice President</u> <i>(Signature and Title)</i>
Witness _____	Witness _____

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 CANCELED 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 THAN THIRTY (30) DAYS AFTER THE ACTUAL RECEIPT OF THIS NOTICE BY THE FMCSA.

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

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

## LETTER AGREEMENT

THIS Letter Agreement (this "**Agreement**") made and entered into as of this 10th day of November, 2010 by and among **Prospect Logistics Services, LLC**, a limited liability company organized and existing under the laws of the state of Missouri ("Trustor") and UMB Bank, n.a., as Trustee, a national banking association organized and existing under the laws of the United States of America (the "**Trustee**").

WHEREAS, Trustor and Trustee have entered into U.S. Department of Transportation Form BMC-85 Property Broker's Trust Fund Agreement ("Agreement") dated November 10, 2010.

WHEREAS, Trustor desires Trustee to act as Trustee under the Agreement and Trustee has agreed to do so.

WHEREAS, in order to supplement the Agreement the parties have agreed to enter into this letter agreement.

NOW, THEREFORE, the Parties and Trustee agree to the terms of this Agreement as follows:

1. Commencement of Duties. The Trustee and Trustor agree that the Trustor shall deposit Ten Thousand Dollars (\$10,000) (the "Funds") with the Trustee under the Agreement and the duties of the Trustee shall begin upon the deposit of Funds. Trustor acknowledges that the Trustee shall not be liable to the Trustor or any other party for any payment of a claim made by the Trustee under the Agreement to any shipper or motor carrier made under the Agreement and that the Trustee shall not be required to expend any of its own funds in regards to any claims or any payments or costs related to the Agreement.

2. Trust Funds. The Trustee shall have no duties or responsibilities other than those expressly set forth herein or in the Agreement, and no implied duties or obligations shall be read into the Agreement or herein against the Trustee. The Trustee shall have no duty to enforce any obligation of any person, other than as provided herein. The Trustee shall be under no liability to anyone by reason of any failure on the part of the Trustor to perform such person's obligations under any such document. The Trustee is not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of this Agreement or with respect to the form of execution of the same. The Trustee shall not be liable for any action taken or omitted by it, or any action suffered by it to be taken or omitted, in good faith, and in the exercise of its own best judgment, and may rely conclusively and shall be protected in acting upon any order, notice, demand, certificate, opinion or advice of counsel (including counsel chosen by the Trustee), statement, instrument, report or other paper or document (not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained) which is believed by the Trustee to be genuine and to be signed or presented by the proper person(s). The Trustee shall not be held liable for any error in judgment made in good faith by an officer or employee of the Trustee unless it shall be proved that the Trustee was grossly negligent in ascertaining the pertinent facts or acted intentionally in bad faith. The Trustee shall not be bound by any notice of demand, or any waiver, modification, termination or rescission of this Agreement or any of the terms hereof, unless evidenced by a

writing delivered to the Trustee signed by the proper party or parties and, if the duties or rights of the Trustee are affected, unless it shall give its prior written consent thereto.

The Trustee may consult legal counsel in the event of any dispute or question as to the construction of any provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the opinion or instructions of such counsel.

The Trustee shall not be responsible, may conclusively rely upon and shall be protected, indemnified and held harmless by the Trustor, for the sufficiency or accuracy of the form of, or the execution, validity, value or genuineness of any document or property received, held or delivered by it hereunder, or of the signature or endorsement thereon, or for any description therein; nor shall the Trustee be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any document, property or this Agreement.

The Trustor, hereby agrees to indemnify the Trustee for, and to hold it harmless against any loss, liability or expense incurred in connection herewith without gross negligence or willful misconduct on the part of the Trustee, including without limitation legal or other fees arising out of or in connection with its entering into this Agreement and carrying out its duties hereunder, including without limitation the costs and expenses of defending itself against any claim of liability in the premises or any action for interpleader. The Trustee shall be under no obligation to institute or defend any action, suit, or legal proceeding in connection herewith, unless first indemnified and held harmless to its satisfaction in accordance with the foregoing, except that the Trustee shall not be indemnified against any loss, liability or expense arising out of its own gross negligence or willful misconduct. Such indemnity shall survive the termination or discharge of this Agreement or resignation of the Trustee.

3. Trustee Fees. Trustee shall be entitled to fees and expenses for its regular services as Trustee under the Agreement as set forth in Exhibit A. The Trustee's fee shall be payable in advance annually on the anniversary of the Agreement.

4. Investment of Funds. Until such time as the Funds shall be distributed by the Trustee as provided in the Agreement, the Funds shall be invested and reinvested by the Trustee in the CT Deposit Plus Account unless otherwise directed in writing by the Trustor.

5. Earnings Allocation; Tax Matters; Patriot Act Compliance. The Trustor agree to provide the Trustee completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Trustee may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement and any information reasonably requested by the Trustee to comply with the USA Patriot Act of 2001, as amended from time to time. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Trustee, the Trustee may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Trustee pursuant to this Agreement.

**Trustee:**

**UMB BANK, n.a., solely as Trustee under the Agreement**

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

Name: Brian P. Krippner

Title: Vice President

**Trustor:**

**Prospect Logistics Services, LLC**

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

Name: Randy E. Jones

Title: Owner

**EXHIBIT A**

TRUSTEE FEES AND EXPENSES

**Annual Fee**

Maintain account	\$500.00
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Fees specified are for the regular, routine services contemplated by the Agreement, and any additional or extraordinary services, including, but not limited to disbursements involving a dispute or arbitration, or administration while a dispute, controversy or adverse claim is in existence, will be charged based upon time required at the then standard hourly rate. In addition to the specified fees, all expenses related to the administration of the Agreement (other than normal overhead expenses of the regular staff) such as, but not limited to, travel, postage, shipping, courier, telephone, facsimile, supplies, legal fees, accounting fees, etc., will be reimbursable. Annual fee charged in connection with the setting up and maintenance of the Trust Account will be payable in accordance with Section 3 herein.

## CIP NOTIFICATION

### IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or business that opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

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Please provide the following information:

Complete Legal Name: **PROSPECT LOGISTICS SERVICES LLC**

Address: 2977 Highway K Suite 109  
O Fallon, MO 63366

Federal Taxpayer Identification Number: \_\_\_\_\_

Please provide a legible photocopy of the following checked documents:

- Certificate of Organization (Obtained from Secretary of State's Website)
- Certificate of Good Standing (Obtained from Secretary of State's Website)
- Certificate of Incumbency (Corporate authorization for person signing the Trust Agreement)  
(see next page)
- IRS Form W-9
- Copy of Drivers License

Return this form and document copies to:

UMB Bank, n.a.  
Corporate Trust Department  
Attn: Brian P. Krippner, CCTS  
2 S. Broadway, Suite 600  
St. Louis, MO 63102

Email: [brian.krippner@umb.com](mailto:brian.krippner@umb.com)

**CERTIFICATE OF INCUMBANCY**

This is to certify that the following individual is authorized by the governance documents of Prospect Logistics Services, LLC (the "Company") to enter into the Property Brokers Trust Fund Agreement between the Company and UMB Bank, N.A., as Trustee.

Name: \_\_\_\_\_ Title \_\_\_\_\_ Signature: \_\_\_\_\_

Dated: November 10, 2010

**Prospect Logistics Services, LLC**

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

**INVESTMENT INSTRUCTIONS**

You are hereby directed to invest moneys in the Trust Agreement in a \$10,000 face value United States Treasury Bill maturing on or about 180 days from the date of their purchase.

Dated: November 10, 2010

**Prospect Logistics Services, LLC**

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



## Request for Taxpayer Identification Number and Certification

**Give form to the  
 requester. Do not  
 send to the IRS.**

Print or type  
 See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>Prospect Logistics Services, LLC</b>	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.) <b>2977 Highway K Suite 109</b>	Requester's name and address (optional) <b>UMB BANK, N.A. CORPORATE TRUST &amp; ESCROW SERVICES</b>
City, state, and ZIP code <b>O Fallon, MO 63366</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



# UMB TrustDirect® Enrollment

By signing this Enrollment Form, the following customer ("Customer") of UMB Bank, n.a. ("Bank"), where Customer's Account(s) set forth below are maintained, requests access to Bank's UMB TrustDirect® service and agrees that the Terms and Conditions for UMB TrustDirect®, as in effect from time to time and published on the UMB TrustDirect website (the "Terms and Conditions"), shall apply to Customer's use of UMB TrustDirect®. In the case of account(s) owned by a corporation, partnership, association or other entity, Customer hereby directs Bank to provide a user identification and password to Customer, which Customer will provide to the officers, employees or other agents ["Authorized Person(s)"] named below. Customer agrees to provide written notification to Bank of any additions or deletions to the list of Authorized Persons. Customer understands and agrees that any action taken by any Authorized Person with regard to UMB TrustDirect®, including without limitation, acceptance of the Terms and Conditions, will be binding on Customer. If any Authorized Person is set forth below, Customer will designate to UMB the specific accounts each Authorized Person may access via UMB TrustDirect®.

## Account Information

ACCOUNT NUMBER(S)
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## Personal Information

NA KEY (Client Number)	E-MAIL ADDRESS (user will be notified by <i>Secure E-mail</i> )			
	rjones@prospectlogistics.com			
FIRST NAME	MIDDLE NAME OR INITIAL	LAST NAME		
Randy	E	Jones		
ADDRESS	CITY	STATE	ZIP CODE	
62977 Highway K Suite 109	O'Fallon	MO	63366	
CORPORATION, COMPANY OR OTHER ENTITY			CAPACITY OR TITLE	
Prospect Logistics Services, LLC			Owner	

## Additional Authorized Users

NA KEY (Client Number)	E-MAIL ADDRESS (user will be notified by <i>Secure E-mail</i> )			
FIRST NAME	MIDDLE NAME OR INITIAL	LAST NAME		
ADDRESS	CITY	STATE	ZIP CODE	
CORPORATION, COMPANY OR OTHER ENTITY			CAPACITY OR TITLE	

## Additional Information

<input checked="" type="checkbox"/> NEW USER TRUSTDIRECT® (INQUIRY ONLY)	<input type="checkbox"/> ADD ACCOUNTS TO EXISTING USER
	USER ID
	<input type="text"/>
UMB ADMINISTRATIVE OFFICER	
<input type="text" value="Brian Krippner"/>	
_____ CUSTOMER'S SIGNATURE	
_____ DATE	

