

ICUSA



Mobility Exchange Corporation

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This Agreement shall govern the services provided by _____, licensed motor carrier pursuant to USDOT # _____ & Docket No. MC# _____ (hereinafter referred to as "Carrier") and "**ICUSA Mobility Exchange Corporation.**" (Hereinafter referred to as "Broker"), a licensed Transportation broker pursuant to Docket No. MC#-579605

1. **BROKER** is a freight broker which arranges for motor carriers to provide cargo transportation for its customers. Broker and Carrier wish for this Contract to govern Carrier's performance of motor transportation services for Broker.

1.1 INDEPENDENT CONTRACTOR. Carrier will perform its Transportation Services for Broker and its Customers as an independent contractor and will not for any purpose be the agent of Broker or Broker's Customers. Carrier has exclusive control and direction of the work Carrier performs pursuant to this Agreement. Carrier will not contract or take other action in Broker's name without Broker's prior written consent.

Carrier agrees to assume full responsibility for the payment of all local, state, federal and intra-provincial payroll taxes, and contributions or taxes for unemployment insurance, worker's compensation insurance, pensions, and other social security or related protection with respect to the persons engaged by Carrier for Carrier's performance of the transportation and related services, and Carrier shall indemnify, defend and hold Broker, and its Customer harmless there from. Carrier shall provide Broker, with Carrier's Federal Tax ID number and a copy of Carrier's IRS Form W-9 prior to commencing any transportation or related services for Broker, under this Agreement.

2. **CARRIER** shall transport shipments arranged by Broker pursuant to carrier load confirmation sheet(s) included herewith or subsequently incorporated by reference. (See Appendix A)

2.1 CARRIER will not re-broker, assign or interline the shipments hereunder without prior written consent of the Broker. If Carrier breaches this provision, Broker shall have the right of paying the monies it owes Carrier directly to the delivering carrier, in lieu of payment to Carrier. Upon Broker's payment to delivering carrier, Carrier shall not be released from any liability to Broker under this agreement. In addition to the indemnity obligation reflected in this agreement the Carrier will be liable for consequential damages for violation of this clause of the agreement.

3. **BROKER** shall pay Carrier for services rendered in an amount equal to the rates and accessorial charges agreed to on the Broker/Carrier Rate Confirmation Sheet or other signed writing. Carrier must submit proof of delivery with invoices to Broker as agent for the shipper. Payment terms shall be thirty (30) days from receipt of necessary supporting documentation.

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4. CARRIER agrees that Broker is the sole party responsible for payment of Carrier's invoices and that, under no circumstance, will Carrier seek payment from the shipper or consignee.

4.1 CARRIER agrees to provide any insurance coverage's required by any government body for the types of transportation and related services specified in load confirmation communications received from Broker. All insurance required by this Agreement must be written by an insurance company having a Best's rating of "B+" or better and must be authorized to do business under the laws of the state(s) or province(s) in which Carrier provides the transportation and related services as specified in load confirmation communications received from Broker.

4.2 CARRIER'S insurance shall be primary and required to respond and pay prior to any other available coverage. Carrier agrees that Carrier, Carrier's insurer(s), and anyone claiming by, through or under Carrier shall have no claim, right of action, or right of subrogation against Broker, its affiliates, or its Customer based on any loss or liability insured under the foregoing insurance. Carrier shall, prior to providing transportation and related services pursuant to this Agreement, name Broker, as a certificate holder on each of the foregoing insurance policies and shall cause its insurance company to issue a certificate to Broker, evidencing the foregoing coverage.

4.3 CARRIER represents and warrants that it will continuously fulfill the requirements of this Section throughout the duration of this Agreement. Broker shall be notified in writing by Carrier's insurance company at least thirty (30) days prior to the cancellation, change or non-renewal of the submitted insurance policies.

4.4 CARRIER shall at all times during the term of this agreement have and maintain in full force and effect, at its expense, (i) Motor Truck Cargo insurance or a superior equivalent, with limits of not less than US\$100,000 per shipment, a deductible no greater than US\$1,000.00 per shipment and at least the same coverage limit and deductible per shipment while in storage or at a storage facility en route to the consignee, (ii) Commercial Automobile Liability insurance with a combined single limit of not less than US\$1,000,000 per occurrence and without aggregate limits, (iv) Worker's Compensation insurance in the amounts required by statute, and Employer's Liability insurance with limits not less than US\$500,000 per occurrence, and (v) if Carrier provides Transportation Services for hazardous materials under DOT regulations, public insurance required for the commodity transported under 49 C.F.R § 387.7 and 387.9 (or successor regulations thereto).

4.5 WHEN CARRIER provides Transportation Services that involve origins and destinations solely within Canada, Carrier shall be current in its remittances to the appropriate Worker's Compensation Board of the Carrier's province , shall provide a certificate issued by the appropriate Worker's Compensation Board of the Carrier's province certifying that the Carrier is not delinquent and is current in its remittances to that authority, and shall have such other insurance or higher coverage limits required by applicable Canadian national or provincial law or regulation.

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4.6 IF CARRIER is self-insured, a certificate of the state in which the transportation services are to be performed must be furnished by such state agencies directly to Broker. Insurance will meet or exceed the requirements of federal, state and/or provincial regulatory bodies having jurisdiction over Carrier's performances pursuant to this agreement. During this Contract's term, the insurance policies

required hereunder and any replacement policies will (i) insure the interests of shipper, Broker and, (ii) cover all drivers, equipment and cargo used in providing Transportation Services and (iii) not contain an exclusion for unattended equipment or cargo, for unscheduled equipment or cargo, for fraud or infidelity, geographical location in the United States, or for a particular radius of operation.

5. NO BACK SOLICITATION AGREEMENT. CARRIER and BROKER agree that BROKER, at great expense has developed a broad customer and vendor base that is essential to the successful operation of BROKER, and that the disclosure of these parties to CARRIER constitutes valuable consideration. During the term of this Agreement and for a period of one (1) year from termination of this Agreement, CARRIER shall not solicit traffic from any consignor, consignee, or Customer of BROKER (collectively referred to as "Customers") where either (1) the availability of such traffic first became known to CARRIER as a result of BROKER's efforts, or (2) the traffic of the BROKER, consignor, consignee or customer of the BROKER was first tendered to the CARRIER by the BROKER. Solicitations prohibited under this Agreement means participation in any conduct, whether direct or indirect, the purpose of which involves transportation of shipper traffic by the CARRIER for BROKER's Customers. Solicitation includes conduct initiated or induced by CARRIER, or accepted from or through others in any way related to or affiliated with CARRIER. If CARRIER breaches this Agreement and "back-solicits" the BROKER's Customers, and obtains traffic from such Customers, CARRIER shall pay BROKER within ten (10) days of each such violation an amount equal to ten (10%) of all revenues invoiced to BROKER's Customers by CARRIER. CARRIER further agrees that BROKER may publicly report this breach of the Agreement, if it occurs, to any trade association or publication, and that the facts of the breach may be published.

6. CARRIER moving perishables: Carrier warrants that the carrier will inspect or hire a service representative to inspect a vehicle's refrigeration or heating unit at least once each month. Carrier warrants that they shall maintain a record of each inspection of refrigeration or heating unit and retain the records of the inspection for a least one year. Copies of these records must be provided upon request to the carrier's insurance company and Broker.

Carrier warrants that they will maintain adequate fuel levels for the refrigeration or heating unit and assume full liability for claims and expenses incurred by the Broker or the shipper for failure to do so.

The carrier must provide their cargo insurance carrier with all records that relate to a loss and permit copies and abstracts to be made from them upon request.

Governing Rules: The following rules shall apply: (a) The terms of the uniform straight bill of lading; (b) Standard claims rules otherwise applicable to common carriers (49 C.F.R. §370 and carrier's rules tariffs); (c) Cargo claims liability as set forth in the Carmack Amendment (49 U.S.C. §14706); (d) Destination market value for lost or damaged cargo, no special or consequential damages unless by special agreement; (e) Claims will be filed with Carrier by Shipper; and (f) Broker's customer is third party beneficiary of this Agreement.

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7. SHIPPING DOCUMENT EXECUTION. Carriers are to be named on the bill of lading as the "carrier of record." Broker shall be shown as the third party payer of all freight charges.

8. INDEMNIFICATION. Carrier agrees to indemnify and hold Broker and its customers harmless from any claims or loss resulting out of any act or omission of Carrier, its employees or agents in the performance of this Agreement or the services provided hereunder including loss of hours or miles or any fines or penalties as a result of Carrier being overloaded. It is the sole responsibility of Carrier to check the weight of each load in a timely manner in order to prevent losses of this nature.

Carrier agrees to hold Broker harmless from and indemnify Broker for any liability resulting from loss or damage to any freight transported by the carrier pursuant to this agreement including all cost to defend claims.

Carrier also agrees to hold Broker harmless from and indemnify Broker for any liability resulting from personal injury or property damage which may occur during the operations of carrier pursuant to this agreement, including all cost to defend claims.

9. CARRIER'S CARGO LIABILITY. Carrier assumes liability as a common carrier for loss, damage to or destruction of any and all of Customer's goods or property while under Carrier's care, custody or control. Carrier shall inspect each load at the time it is tendered to Carrier to assure its condition. If Carrier is tendered a load which is not in suitable condition, it shall notify Broker, immediately. Cargo which has been tendered to Carrier intact and released by Carrier in a damaged condition, or lost or destroyed subsequent to such tender to Carrier, shall be conclusively presumed to have been lost, damaged or destroyed by Carrier unless Carrier can establish otherwise by clear and convincing evidence. Carrier shall either pay Broker, directly or allow Broker, to deduct from the amount Broker, owes Carrier, Customer's full actual loss, or the amount determined by Broker, and Carrier to be Carrier's responsibility. Broker, shall deduct from the amount Broker, and otherwise owes Carrier, the Customer's full actual loss of all claims that are not resolved within ninety (90) days of the date of the claim. Carrier agrees to indemnify Broker, for any payments made hereunder. In the event of an accident, Carrier shall notify Broker immediately for further instructions. Carrier shall return all damaged shipments at its expense to the point of origin or to other points as instructed by Broker.

9.1 SALVAGE CLAIMS. Carrier shall waive any and all right of salvage or resale of any of Customer's damaged goods and shall, at Broker, reasonable request and direction, promptly return or dispose, at Carrier's cost, any and all of Customer's damaged and overage goods shipped by Carrier under a Transportation Schedule. Carrier shall not under any circumstance allow Customer's goods to be sold or made available for sale or otherwise disposed of in any salvage markets, employee stores, or any other secondary outlets. In the event that damaged goods are returned to Customer and salvaged by Customer, Carrier shall receive a credit for the actual salvage value of such goods.

10. LAW AND INTERGRATION. This written Agreement, together with any load confirmation, contains the entire agreement between the parties and may only be modified by signed written agreement. State law, venue and jurisdiction shall apply in the state of Indiana.

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10.1 CARRIER shall maintain satisfactory U.S. DOT safety ratings otherwise they are not authorized to provide the proposed services.

11. SAVINGS CLAUSE. If any provision of this Agreement or any Transportation Schedule is held to be invalid, the remainder of the Agreement or the Transportation Schedule shall remain in force and effect with the offensive term or condition being stricken to the extent necessary to comply with any conflicting law.

12. This Agreement shall be for the period of one (1) year and shall be automatically renewed unless cancelled. Either party may terminate this Agreement upon fifteen (15) days written notice.

ICUSA Mobility Exchange Corporation

CARRIER

By: _____

By: _____

Witness: _____

Witness: _____

Date: _____

Date: _____