



BROKER/CARRIER AGREEMENT

THIS BROKER/CARRIER AGREEMENT is made on this _____ of _____, _____ by and between _____

_____, hereinafter referred to as "CARRIER", and, **Mesa Transportation Group, LLC. dba FreightMatchers.com** hereinafter referred to as "BROKER".

Definitions:

In this Agreement where the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them.

"Broker" means a person, 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 itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier.

"Motor Carrier" means a motor carrier, providing the motor vehicle for the transportation of property for compensation operating under their own authority and insurance under this continuous Agreement.

Whereas, BROKER, is licensed as a property broker by Federal Motor Carrier Safety Administration ("FMCSA") [Mesa Transportation Group dba FreightMatchers.com. (MC - 474539)], and as a licensed BROKER arranges for motor carrier freight transportation under its contracts with consignors and consignees ("Customer"); and

Whereas, CARRIER is registered with FMCSA as a motor contract carrier in interstate, intrastate, and/or foreign commerce _____

Carrier Name

_____ MC# _____ and is in all respects qualified to transport freight as required by BROKER; and

Whereas, BROKER, to satisfy some of its transportation needs, desires to engage CARRIER to perform transportation within the limits of CARRIER'S contract operating authorities according to this Agreement's terms and conditions, and CARRIER desires to perform such transportation.

Now, therefore, intending to be legally bound, the parties agree as follows.

1. This Agreement's term shall be one year subject to earlier termination by either party giving thirty days written notice to the other. Absent such notice, it shall automatically renew for successive one-year periods.
2. CARRIER represents and warrants that it is duly and legally qualified to provide, as a contract carrier, the transportation services contemplated herein. CARRIER further represents and warrants that it does not have a conditional or unsatisfactory safety rating issued from the U.S. Department of Transportation, and further agrees to comply with all federal, state and local laws regarding the provisions of the transportation services contemplated under this Agreement. In the event that CARRIER is requested by BROKER to transport any shipment required by the U.S. Department of Transportation to be placarded as a hazardous material, the parties agree that the additional provisions included in Appendix A shall apply for each such shipment.
3. There is no minimum volume of freight contemplated by this Agreement. BROKER is not restricted against tendering its freight to other carriers; CARRIER is not restricted against performing transportation for other shippers.
4. CARRIER shall transport all shipments tendered through BROKER and accepted by CARRIER, without delay. CARRIER shall immediately notify BROKER of any likelihood of delay.
5. CARRIER shall issue or, if prepared by Shipper, sign the bill of lading for each shipment tendered for transportation and the bill of lading shall show Carrier to be the motor carrier performing the transportation. CARRIER shall obtain from the consignee a complete, signed delivery receipt for each shipment, and it shall notify BROKER immediately of any exception on any document. CARRIER shall send BROKER delivery receipts and bill of lading within twenty-four hours of delivery, as BROKER directs.
6. Documents for each of BROKER'S shipments, including the bills of lading shall name BROKER as "BROKER" and CARRIER as "CARRIER." If there is a wrongly worded document, the parties will treat it as if it showed BROKER as "BROKER" and CARRIER as "CARRIER." If there is a conflict between this Agreement and any transportation document related to BROKER'S shipment, this Agreement shall govern.
7. CARRIER shall be wholly responsible for performing the contemplated transportation and for all costs and expenses of such transportation, including as examples, cost and expenses of all CARRIER'S transportation equipment, its maintenance, and those persons who operate it. As to BROKER, CARRIER is an independent contractor, and as such is wholly responsible in every way for such persons as CARRIER hires or employs. Broker does not direct CARRIER'S schedules, specify its routes or otherwise control or have the power to control CARRIER'S operations.

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8. CARRIER shall defend, indemnify, and hold BROKER, broker's Customer, Consignor and Consignee harmless from and against all loss, liability, damage, claim, fine, cost or expense, including reasonable attorney's fees, arising out of or in any way related to, CARRIER'S performance of the contemplated transportation or CARRIER'S breach of any terms of this Agreement.
9. During this Agreement's term, CARRIER shall comply with the financial responsibility requirements of the appropriate Federal and State laws and regulatory agencies through which it is authorized to operate.
10. Motor Carrier, at its sole cost and expense, including the cost of deductibles, shall procure and maintain in force during the term of the Agreement the following insurance coverage:
 - a. Liability Insurance, including auto liability, personal injury and property damage, with limits of liability of at least \$1,000,000.00 per occurrence and as required by the Federal Motor Carrier Safety Administration (Forms BMC-91X and BMC-34 on file); and at least no less than \$5,000,000.00 per occurrence for any liability associated with the move of Hazardous Materials and more fully set forth in 49CFR 171.8, 172.101 and 173.403.
 - b. Broad Form Cargo Legal Liability insurance in an amount of \$100,000.00 per any one occurrence.
 - c. Commercial General Liability (CGL) insurance, on a per occurrence basis, endorsed to cover premises operations, products/completed operations, personal injury and contractual liability, including any and all liability assumed under this Agreement, with limits of liability of at least \$1,000,000.00 any one occurrence.
 - d. Workers' Compensation insurance, covering applicable statutory benefits in the State where work is being performed; Employer's liability insurance in the amount of at least \$1,000,000.00.
 - e. CARRIER'S cargo and liability insurance shall comply with the FMCSA requirements in all respects; and shall be in form required by 49 C.F.R. Part 13906(a), with no exclusions or restrictions, which would not be accepted by the FMSA for a filing under the statutory or regulatory requirements; but shall be, in all respects, identical to insurance filed in accordance with the cited regulation.
 - f. CARRIER agrees that its cargo and liability insurance policies shall require the insurance carrier(s) to give BROKER copies of insurance policies and Standard Certificate(s) of insurance for both the cargo and the liability risks and CARRIER shall instruct its insurance carrier to give BROKER thirty (30) days written notice of any modification or termination of such insurance policies.
11. Carrier shall agree that its liability for cargo loss or damage shall be no less than that of a Common Carrier as provided for in 49 USC 14706 (the Carmack Amendment). Exclusions in Carrier's insurance coverage shall not exonerate Carrier from this liability.
12. CARRIER shall not withhold any freight due to any dispute with BROKER regarding freight charges. CARRIER waives and releases all liens, which it might otherwise have to any of BROKER'S or Customer's freight in its possession.
13. The parties agree the rates and charges for the contemplated transportation shall be only those on the individual Rate Confirmation Sheets, signed by each of them prior to each shipment. BROKER will pay CARRIER the agreed amount within thirty (30) days of BROKER'S receipt of CARRIER'S freight bill, bill of lading, clear delivery receipt, and any other documents necessary to enable BROKER to ascertain transportation has been properly provided. CARRIER agrees BROKER shall serve as its agent for the collection of its freight charges, and payment of the freight charges by Shipper, consignee or consignor to BROKER shall be deemed payment to CARRIER Only BROKER and not CARRIER shall bill Customer for transportation; CARRIER shall not seek to collect from Customer or any other party involved with the shipment. CARRIER agrees BROKER, at its option, may offset against any payments owed to CARRIER amounts CARRIER owes BROKER under paragraph 11.
14. CARRIER shall transport all freight tendered by BROKER only on equipment operated under CARRIER'S authority and insurance policies.. CARRIER shall not in any way sub-contract, or arrange for the freight to be transported by a third party without BROKER'S prior written consent.
15. 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 the BROKER. CARRIER and BROKER agree that disclosure of the identity of BROKER customers to CARRIER constitutes valuable consideration. CARRIER shall not solicit traffic from any shipper, consignor, consignee or customer of BROKER

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where (1) the availability of such traffic first became known to CARRIER as a result of BROKER'S efforts, or (2) where the traffic of the shipper, consignor, consignee, or customer of the BROKER was first tendered to the CARRIER by the BROKER. If CARRIER breaches this agreement and "back-solicits" the BROKER'S customer(s), and obtains traffic from such customer(s), the BROKER is entitled, for a period of twelve (12) months after such traffic begins to move, a commission from the CARRIER of fifteen (15) percent of the total transportation revenue received by CARRIER on the movement(s) of traffic.

- 16. This Agreement is the entire agreement between the parties, superceding all earlier agreements. It cannot be altered or amended except in writing signed by both parities. It may not be assigned or transferred in whole or in part.
- 17. If the operation of any part of this Agreement results in a violation of any law, such part shall be severed and the Agreement's remaining provisions shall continue in full force and effect.
- 18. CARRIER and BROKER expressly waive all rights and remedies allowed under 49 U.S.C § 14101; to the extent, they conflict with this Agreement. BROKER'S failure to insist upon CARRIER'S performance under this Agreement or to exercise any right or privilege shall not be a waiver of any BROKER'S rights or privileges.
- 19. This Agreement shall be deemed to have been drawn under Colorado law. If there is a dispute, any legal action must be brought in Colorado and Colorado's laws shall apply, without regard to its conflict of laws rules.
- 20. Notices shall be sent by registered mail, returned receipt requested, to each party at the addressed shown below, or to such other addresses as shall have been designated in writing.

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.

"BROKER"

"CARRIER"

Mesa Transportation Group LLC dba FreightMatchers.com
681 railroad Blvd
Grand Junction, CO 81505
Phone: 602-237-6718
FAX: 602-680-2498
Diane Endres – Director of Brokerage Services

Company Name

Address

City, State, Zip

Phone Number

Fax number

Print Name and Title

Signature

Diane Endres

Signature

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CERTIFICATE OF ELECTION

CERTIFICATION This is to certify that the firm named below has elected to not cover its owners, partners or officers under the workers' compensation laws of the State of _____. The firm named below certifies that it has no employees. The firm named below certifies that it uses no independent contractors. Based upon the election not to cover owners, partners or officers, the fact there are not other employees and that no independent contractors are used, a workers' compensation policy is not purchased.

AGREEMENT

The firm named below promises, in consideration for work received from Client, that if the owners, partners or officers choose to change their election, if any employee is hired or if any independent contractor is used, then a certificate of insurance evidencing workers' compensation coverage will be furnished prior to the commencement of any work.

PERIOD

The period of this agreement is: _____ to _____.

CARRIER:

Carrier Name: _____

MC Number: _____

By: _____

Signature: _____

Title: _____

Date: _____

Carrier's Initials _____



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CARB TRU Amendment

Background

On October 21, 2100, the California Air Resources Board (CARB) approved a package of amendments to the Transport Refrigeration Unit (TRU) Airborne Toxic Control Measure (ARCM). Included in that package is an amendment that affects brokers, freight forwarders, shippers, receivers, motor carriers, and their drivers. The new regulation requires any reefer-equipped truck, tractor-trailers, shipping containers, or rail-cars for the transport of perishable goods on California highways or railways, must comply with the new regulations.

If a motor carrier is found to be non-compliant and operating on a California highway, the broker, the carrier, the driver, the shipper, and the receiver could be subject to a \$1,000 fine per incident.

CARRIER REPRESENTS AND WARRANTS THAT On behalf of shipper, consignee and broker interests, to the extent that any shipments subject to this Agreement are transported within the State of California on refrigerated equipment, CARRIER warrants that it shall only utilize equipment which is in full compliance with the California Air Resources Board (ARB) TRU ACTM in-use regulations.

CARRIER shall be liable to BROKER for any penalties, or any other liability, imposed on, or assumed by BROKER due to penalties imposed on BROKERS customer because of CARRIER's use of non-compliant equipment.

CARRIER:

Carrier Name: _____

MC Number: _____

By: _____

Signature: _____

Title: _____

Date: _____

Carrier's Initials _____