

CO-BROKERAGE AGREEMENT BETWEEN LICENSED TRANSPORTATION BROKERS

This document is an AGREEMENT between Mike's Loading Service, Inc., whose address is 1802 S. Expressway 281, Edinburg, Texas 78542, and whose Motor Carrier Number is MC-269020-B, herein referred to as Broker A, and _____, whose address is _____ and whose Motor Carrier Number is MC-_____, herein referred to as Broker B, said Broker A and Broker B being collectively or interchangeably referred to as broker/brokers or party/parties.

WITNESSETH:

WHEREAS, both parties are duly licensed property transportation brokers - as evidenced by their licenses which are attached hereto as Appendices "A" and "B" and incorporated herein by reference for all purposes. Brokers are each authorized to arrange for the transportation by motor vehicle of general commodities except household goods, between points in the United States;

WHEREAS, both parties control the tender for transportation of shipper commodities to be offered to carriers in accord with the criteria established in 132 MCC 794 (1982); and,

WHEREAS, both parties have extensive experience in dealing with both shippers and carriers of general commodities and recognize that a cooperative arrangement between the parties can be to their mutual advantage;

NOW, THEREFORE, in consideration of the covenants and agreements and warranties hereinafter set forth, it is agreed:

1. The broker providing the carrier ("the involved carrier") for any brokered traffic under this agreement hereby warrants, covenants, and agrees:
 - a) that all involved carriers at any time provided by broker:
 - (i) are and shall each be licensed motor carriers with an acceptable DOT safety rating, the authority to provide transportation of general commodities between all points in the United States, and no such involved carrier provided by broker shall have a conditional or a unsatisfactory DOT safety rating at the time of tender of any traffic for movement under this agreement;
 - (ii) on all regulated traffic/loads and on all unregulated/exempt traffic/loads, shall each have agreed in writing on file with broker(s) to maintain and keep in full force and effect, at the involved carrier's own expense, a minimum of \$100,000 cargo liability insurance together with refrigeration breakdown coverage (for temperature sensitive loads) on each vehicle operating and on which cargo is being moved by the involved carrier under the terms of this Agreement. Such involved carrier shall have also agreed in writing on file with broker(s) to maintain a minimum of \$1,000,000 per occurrence automobile liability insurance coverage during the course of transport of any load under this agreement and the involved carrier shall furnish to broker(s) a currently accurate and correct Certificate of Insurance, together with any amendments, updates, or corrections to previously submitted certificates, evidencing said insurance coverage and naming broker(s) as Certificate Holder(s) on said policy(ies) prior to moving each shipment under this agreement. While it shall be the contractual duty and obligation of each involved carrier to keep its insurance certifications and policy status at all times

accurately current with broker(s), it shall be the duty and responsibility of broker(s) to check the current active status before booking any carrier on any load under this agreement;

- (b) that the rates negotiated to be charged for the transportation are lawful rates, fully executed and signed faxed confirmation of rates will be obtained in advance of any involved carrier providing service, said fax confirmations will be accepted as originals, and will be kept on file by broker(s);
- (c) that a valid written contract is on file with broker and exists between the broker and the involved carrier;
- (d) that no shipper, owner or consignee on any shipment arranged by broker pursuant to this agreement shall enjoy any greater or lesser rights than any other shipper, owner, or consignee under any other agreement currently in effect between the parties; PROVIDED HOWEVER, broker(s) shall by written agreement with each shipper, owner, or consignee on each shipment tendered by broker under this agreement provide in writing for a maximum liability/maximum contingent liability of \$3.00 per pound of cargo, with a maximum total liability/maximum total contingent liability of \$100,000 per regulated traffic load; and a maximum liability/maximum contingent liability of \$1.00 per pound of cargo, with a total maximum liability/maximum total contingent liability of \$45,000 per unregulated/exempt load.

2. The broker who provides the traffic shall be responsible for the payment of the transportation charges to the involved carrier within 30 days from receipt of the signed delivery receipt, original bill of lading, and the involved carrier's freight bill for the agreed upon amount for the transportation service performed. The failure of the shipper to pay the transportation charges shall be no defense to failure to timely pay the freight charges in full. The form attached hereto as "Appendix C", and incorporated herein by reference, shall be used to state the freight charges in writing and shall contain all freight charge amounts and the instructions to the involved carrier on each shipment. Acceptance of the freight charge amounts and acknowledgement of the instructions shall be evidenced by signature of both parties. The fully executed form (Appendix C) or an executed facsimile copy thereof shall constitute the written agreement as to such described transactions.

3. Brokers agree to the tender for transport at least 40,000 lbs. of freight per year.

4. Both parties agree to cooperate fully with the other in procuring freight from shippers or transportation services from carriers and to utilize each other's services from time to time when such is in furtherance of the best interests of the clients being served or of the persons/entities who have a beneficial interest in such services.

5. In recognition of the fact that each of the parties have their own shipper or carrier accounts and will separately procure new accounts during the term of this agreement, the parties hereto expressly agree that each shall refrain from soliciting business from or performing brokerage services directly on behalf of any shipper or carrier that the other party first procures and with whom it continues to have as a customer account. In the event of the breach of this provision, the injured party is entitled to 20% of the gross billing on such transactions for a period of one year thereafter as compensatory damages.

6. The relationship of each broker to the other shall at all times be limited to that of an independent contractor.

7. Any and all changes to this agreement shall be in writing and signed by both parties in order to be enforceable.

8. If any damages are caused to one party by the failure of the other party to carry out any of the covenants, guarantees, warranties, terms or conditions contained in this agreement, the damaged party shall receive compensation of actual damages from the party who failed to carry out the said covenants, agreements, warranties, terms and/or conditions including the payment of reasonable attorney's fees and costs. Unless specifically provided for elsewhere in this agreement, both parties waive any claim/cause of action for damages other than actual damages for breach of this agreement, including, but not limited to the following: any claim for consequential damages; any non-contractual claims; claims sounding in tort; claims for fraud, deceptive practices, or deceptive trade practices; and claims for exemplary or punitive damages.

9. The broker who provided the involved carrier shall be responsible to determine that the involved carrier is duly licensed, with the appropriate and satisfactory primary cargo and liability insurance of the type and with the scope of coverage as described and as required above herein. In the event of loss of all or any portion of a shipment brokered under this agreement, the broker who procured the involved carrier shall indemnify and hold the other co-broker herein harmless from any and all losses associated with said loss or damage to the involved cargo, including but not limited to any court cost, interest or attorney fees accrued during any legal proceedings. Notification of possible loss or damage shall be given as soon as such information is available.

10. This agreement shall be have an initial term of two (2) years commencing the date of execution. This agreement shall renew from year to year thereafter unless terminated by either party. Either party may terminate this agreement by providing to the other party fifteen (15) days prior written notice of termination delivered by hand or sent certified mail, return receipt requested to the other party at the addresses provided above or address later provided by written notice. Termination of this agreement shall not relieve either party of obligations to the other incurred prior to the effective date of termination nor of obligations arising out of any of the terms contained in this agreement.

11. The parties agree that this agreement may be executed in multiple counterparts, each one of which shall be construed to be an original and that a facsimile copy bearing a signature of a party shall be accepted as an original should no other original copy be readily or conveniently available.

12. This instrument constitutes the entire agreement of the parties with reference to the subject matter hereof and may not be changed, waived or modified except in writing signed by both parties. This Agreement shall be construed in accordance with the laws of the State of Texas and venue for any dispute shall be Hidalgo, County, Texas.

IN WITNESS WHEREOF, the parties have set their hands and seal this ____ day of _____, 20__.

A: Mike's Loading Service Inc.

Broker B: _____

By: _____ Title: _____

By: _____ Title: _____

For MIKE'S LOADING SERVICE INC.

Please review, sign and return via fax 956.292.2755.