

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**THOMAS MERVYN, individually  
and on behalf of all others similarly  
situated,**

**Plaintiff,**

**V.**

**No.:**

**ATLAS VAN LINES, INC. and  
ACE WORLD WIDE MOVING & STORAGE  
CO., INC., individually and on behalf of all  
others similarly situated,**

## Defendants.

## Plaintiff Demands Trial By Jury

**CLASS ACTION COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff, Thomas Mervyn, individually and on behalf of all others similarly situated, brings this action to recover compensatory damages, treble damages, declaratory and injunctive relief against Defendant, Atlas Van Lines, Inc. (“Atlas”), and Defendant, Ace World Wide Moving & Storage Co., Inc. (“Ace”), individually and on behalf of all others similarly situated, and hereby alleges as follows:

## NATURE OF THE CLASS ACTION

1. Trucking owner-operators, like other business owners, strive to be successful and they work hard to make an honest profit. Despite their best efforts to protect their business and make a living, they often times encounter problems with their carrier. The most common problems experienced by owner-operators are receiving properly calculated payments on time and/or improper charge-backs. The Federal Motor Carrier Safety Administration Truth-in-Leasing statute and corresponding regulations, 49 C.F.R. Part 376 (Lease and Interchange of

Vehicles), specifically addresses leasing requirements and the individual responsibilities of carriers to their owner-operators.

2. Plaintiff brings this class action because Atlas and Ace and the members of the Defendant Class (as defined in ¶ 8(b) of this Complaint) formulated, implemented and/or engaged in and practiced a common course of conduct against Plaintiff and the members of the Plaintiff Class (as defined in ¶ 8(a) of this Complaint) by knowingly and unlawfully reducing and intentionally miscalculating Plaintiff's and Plaintiff Class members' compensation.

### **THE PARTIES**

#### **A. Plaintiff**

3. Thomas Mervyn ("Mervyn"), a resident and citizen of Texas, is an owner-operator of a moving truck and van. He entered into a lease agreement listing Defendant Atlas as the carrier within the purview of 49 U.S.C. § 14102 and 49 C.F.R. § 376.12. A true and correct copy of that lease agreement is attached hereto as Exhibit A. Plaintiff brings this suit individually and on behalf of all members of the Plaintiff Class, defined in ¶ 8(a) of this Complaint.

#### **B. Defendants**

4. (a) Atlas, headquartered in Evansville, Indiana, is a motor carrier which, at all times relevant to this class action, held and continues to hold a certificate of authority issued by the Federal Motor Carrier Safety Administration. Atlas is a cooperative van line owned by its agents and it claims to be the second largest van line and carrier of household goods with over 500 agents in North America. According to its Internet website, "the Atlas Van Lines agent family is a cooperative, or 'co-op,' of 400+ independently owned moving and storage businesses across the U.S. ... As members of a cooperative network, Atlas agents also share resources."

Atlas is a nationwide transporter of property and operates through a network of agents and is the assignee of lease agreements from owner-operators of equipment. Atlas has been agent owned since 1988, when eleven (11) Atlas agents, including Nelson Westerberg, Inc. and Defendant Ace, orchestrated the buyback of Atlas from a third party.

(b) Ace, a Wisconsin corporation, is a moving company headquartered in Cudahy, Wisconsin. Ace, which was founded in 1946, does business under various names including, but not limited to, Ace Relocation Services Joint Venture. Ace has nine (9) separate business locations, including a location in Elgin, Illinois. According to its Internet website, Ace has been servicing the Chicagoland area since 1987. Upon information and belief, Ace has historically been and continues to be one of the top revenue-producing agents of Atlas. Further, upon information and belief, because of Ace's past and believed present leadership positions held with Atlas, Ace plays a high level role in shaping the way Atlas does business. Ace was not only one of the eleven (11) agents that orchestrated the repurchase of Atlas in 1988, but its Chairman of the Board, John W. Steiner, was and, upon information and belief, continues to be, a director and stockholder of Atlas. Ace is named as a Defendant in its individual capacity and as at least one adequate representative of the Defendant Class, which is defined in ¶ 8(b) of this Complaint.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1331 and 1337(a) because the claims asserted in this Complaint arise under the Motor Carrier Act, 49 U.S.C. §§ 14102 and 14704 *et seq.*, and the regulations promulgated thereunder, namely 49 C.F.R. § 376.12(d), all of which relate to truck owner-operators lease equipment to authorize motor carriers for the transportation of property. In addition, this Court has subject matter jurisdiction over this class action under Section 1964(c) of the Racketeer

Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1964(c).

6. Venue is proper in this District pursuant to 28 U.S.C. 1391(b) because, during the Class Period, Atlas and Ace transacted business in this District, Ace maintained offices in this District, Defendants were and are found in this District, and because a substantial part of the events giving rise to Plaintiff’s and Plaintiff Class members’ claims occurred in this District. Moreover, venue is proper in this District pursuant to Section 1965(a) of RICO, 18 U.S.C. § 1965(a), because Defendants are found, have agents and transact their affairs in this District.

7. Upon information and belief, Defendants continue to carry out the wrongful acts described in this Complaint in this District.

### **CLASS ACTION ALLEGATIONS**

8. (a) Plaintiff brings this class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of the following Plaintiff Class:

All equipment owner-operators in the United States who, during the period from May 14, 2009, through the present, had or have lease agreements that identify Atlas Van Lines, Inc. as the carrier, and which are subject to federal regulations contained in Part 376 of the Code of Federal Regulations.

(b) Plaintiff brings this class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following Defendant Class:

All moving companies in the United States that, during the period May 14, 2009, to the present, were or are owners-agents of Atlas Van Lines, Inc., had or have lease agreements that identify Atlas Van Lines, Inc. as the carrier, and which are subject to federal regulations contained in Part 376 of the Code of Federal Regulations.

9. Plaintiff believes that there are thousands of members of the Plaintiff Class described in ¶ 8(a), the exact number and their identities being known by Atlas and Ace and the members of the Defendant Class. Based upon information posted on the Internet websites

maintained by Atlas, Plaintiff believes that there are hundreds of members of the Defendant Class described in ¶ 8(b), the exact number and their identities being known by Atlas and/or Ace.

10. The members of the Plaintiff Class and the members of the Defendant Class are so numerous and geographically dispersed that joinder of all members is impracticable.

11. There are questions of law or fact common to the Plaintiff Class and the Defendant Class. The payment provisions contained in the lease agreements entered into between members of the Plaintiff Class and members of the Defendant Class and listing Atlas as the carrier are, upon information and belief, substantively identical. The common questions of law or fact in this class action include, but are not limited to:

- (a) Whether the agreements violate the Truth-in-Leasing regulations;
- (b) Whether Atlas and/or Ace and the members of the Defendant Class engaged in a common course of conduct to systematically reduce compensation owed and paid to Plaintiff and the members of the Plaintiff Class;
- (c) Whether Atlas and/or Ace and the members of the Defendant Class engaged or continue to engage in a combination and conspiracy among themselves to improperly reduce and miscalculate the true compensation owed to Plaintiff and the members of the Plaintiff Class;
- (d) Whether the conduct and actions committed or engaged in by Atlas and/or Ace and the members of the Defendant Class violated the Motor Carrier Act;
- (e) Whether Atlas and/or Ace and the members of the Defendant Class, as a cooperative and/or an association-in-fact, constituted an “enterprise,” as that term is defined in Section 1961(4) of RICO, 18 U.S.C. § 1961(4);
- (f) Whether Atlas and/or Ace and the members of the Defendant Class engaged in and/or aided and abetted violations of the federal mail fraud statute, 18 U.S.C. § 1341, by

mailing or causing to be mailed false and misleading settlement sheets and/or other types of false and misleading written statements to Plaintiff and the members of the Plaintiff Class;

(g) Whether Atlas and/or Ace and the members of the Defendant Class engaged in a “pattern of racketeering activity,” as that term is defined in Section 1961(5) of RICO, 18 U.S.C. § 1961(5);

(h) Whether the conduct of Atlas and/or Ace and the members of the Defendant Class, as alleged in this Complaint, caused injury to Plaintiff and the members of the Plaintiff Class;

(i) Whether Ace and the members of the Defendant Class share a similar defense or defenses; and

(j) The appropriate measure of damages sustained by Plaintiff and the members of the Plaintiff Class.

12. Plaintiff is a member of the Plaintiff Class, as defined in ¶ 8(a) of this Complaint. Plaintiff’s claims are typical of the claims of the members of the Plaintiff Class and Plaintiff will fairly and adequately protect the interests of the Plaintiff Class. Plaintiff’s interests are coincident with and not antagonistic to those of the other members of the Plaintiff Class. In addition, Plaintiff is represented by counsel who are competent and experienced in the prosecution of Motor Carrier Act, civil RICO and class action litigation. Ace is a member of the Defendant Class, as defined in ¶ 8(b) of this Complaint. The potential liability of Ace is typical of the potential liability of the members of the Defendant Class and Ace, along with other owners-agents of Atlas, will or could fairly and adequately protect the interests of the Defendant Class. The interests of Ace are coincident with and not antagonistic to those of the other members of the Defendant Class. In addition, Ace will be represented by counsel who are

competent and experienced in the defense of class action litigation.

13. The prosecution of separate actions by Plaintiff and individual members of the Plaintiff Class would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Atlas and/or Ace and the members of the Defendant Class.

14. Atlas and/or Ace and the members of the Defendant Class have acted, and refused to act, on grounds generally applicable to the members of the Plaintiff Class, thereby making appropriate final injunctive relief with respect to the Plaintiff Class as a whole and the Defendant Class as a whole.

15. The questions of law or fact common to the members of the Plaintiff Class and the members of the Defendant Class, as identified in ¶ 11(a)-(j) of this Complaint, predominate over any questions affecting only individual members of the Plaintiff Class and individual members of the Defendant Class, including legal and factual issues relating to liability and damages.

16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The members of the Plaintiff Class and the members of the Defendant Class are readily definable and is one for which records should exist in the files of Defendants Atlas and/or Ace. The prosecution and the defense of this case as a class action will eliminate the possibility of repetitious litigation. Treatment as a class action will permit a large number of similarly situated persons to adjudicate their common claims and common defenses in a single forum simultaneously, efficiently and without duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many members of the Plaintiff Class who otherwise could not afford to litigate claims such as are asserted in this Complaint. This class action does not present

any difficulties of management that would preclude its maintenance as a class action.

### **FEDERAL REGULATORY SETTING**

17. Under federal law, an authorized motor carrier may perform authorized transportation in equipment it does not own only under a written lease granting use of the equipment and satisfying the requirements set forth in 49 U.S.C. 14102 and 49 C.F.R. § 376.12. Under 49 C.F.R. § 376.12, the “required lease provisions shall be adhered to and performed by the authorized carrier.” While the lease may be signed by an “authorized representative,” the “lease shall be made between the authorized carrier and the owner of the equipment.” Further, under 49 C.F.R. § 376.12(m), the “carrier is obligated to ensure that [owner operators] receive all the rights and benefits due an owner under the leasing regulations, especially those set forth in [49 C.F.R. § 376.12(d)–(k)].” A person or entity who or that is injured as a result of a carrier’s violations of the regulations may bring an action and obtain injunctive relief and damages, 49 U.S.C. § 14704(a)(1) and (2), as well as attorneys’ fees and costs, as permitted by 49 U.S.C. § 14704(c).

### **FACTUAL ALLEGATIONS**

18. Under the terms of the lease agreements, owner-operators (such as Plaintiff and the members of the Plaintiff Class) were supposed to receive compensation based on a fixed percentage of the line haul and accessorial service charges. *See, e.g., Exhibit A*, page 21 of 32; *see also Exhibit B*, Schedule B.

19. During the Class Period, however, owner-operator compensation was *not* based upon the *actual* line haul and accessorial service charges. Rather, and in contravention of the lease agreements, understated line haul and accessorial service amounts were used by Atlas and/or Ace and the members of the Defendant Class to calculate owner operator compensation.



20. After Plaintiff and the other members of the Plaintiff Class hauled a shipment, they received a settlement sheet (or sometimes several settlement sheets) identifying the line haul amount paid to the driver.

21. Exhibit C is an annotated example of one such settlement sheet. It shows that Mervyn was paid \$3,858.33 in line haul for hauling Rick Evan's (*i.e.*, the shipper's) goods from Texas to Idaho (the "Evans Shipment").

22. Often times, Plaintiff and the members of the Plaintiff Class received additional payment documents from Atlas and/or Ace in connection with shipments hauled by them. Exhibit D is an annotated example of an additional payment document pertaining to the Evans Shipment. Exhibit D shows that although the actual line haul (L/H) charge was \$7,416.79, a different, understated line haul (L/H) amount was used to arrive at the line haul figure of \$3,858.33. In this example, Plaintiff received 58% of \$6,652.29—or \$3,858.33, as opposed to 58% of \$7,416.79—or \$4,301.74.

23. By using understated amounts, as opposed to the amount of the actual line haul and accessorial service charges, Atlas and/or Ace and the members of the Defendant Class caused owner-operators, including Plaintiff and the members of the Plaintiff Class, to be routinely and systematically underpaid in an amount that equals the difference between the actual line haul and accessorial service charges minus the understated line haul and accessorial service amounts used to calculate owner operator compensation, times the applicable percentages specified in the lease agreements.

## **CAUSES OF ACTION**

### **First Claim For Relief** ***Violation of 49 C.F.R. § 376.12(d)***

24. Plaintiff re-alleges Paragraphs 1-23 of this Complaint and adopts same as though fully set forth herein.

25. Under 49 C.F.R. § 376.12(d), the “amount to be paid by the authorized carrier for equipment and driver’s services shall be *clearly stated* on the face of the lease or in an addendum which is attached to the lease [agreements].” (Emphasis added.)

26. During the Class Period, Atlas and/or Ace and the members of the Defendant Class violated § 376.12(d) by failing to disclose in the lease agreements that the line haul and accessorial service amounts used to calculate owner-operator compensation would be *less than* the amounts of the actual line haul and accessorial service charges, or in other words, that two separate and different discounts would be applied to determine two separate line haul amounts—one to be charged the customer (the actual line haul amount); the other to be used to calculate owner operator compensation (the understated line haul amount).

27. During the Class Period, Atlas and/or Ace and the members of the Defendant Class violated § 376.12(d) by applying undisclosed additional deductions and/or discounts, which were not identified in the lease agreements, to the actual line haul and accessorial service charges upon which owner operator compensation was supposed to be based. By applying what amounts to two separate discounts to arrive at two different line haul amounts, Atlas and/or Ace and the members of the Defendant Class violated the disclosure requirements of § 376.12(d).

28. As a direct and proximate result of the violations of 49 C.F.R. § 376.12(d) committed by Atlas and/or Ace and the members of the Defendant Class, owner-operators, including Plaintiff and the members of the Plaintiff Class, are entitled to recover the difference

between the actual line haul and accessorial service charges minus the understated line haul and accessorial service amounts resulting from the undisclosed deductions to the actual charges, times the percentage specified in the lease agreements.

29. As a direct and proximate result of the violations of 49 C.F.R. § 376.12(d) and 49 C.F.R. § 376.12(m) committed by Atlas and/or Ace and the members of the Defendant Class, owner-operators, including Plaintiff and the members of the Plaintiff Class, are deprived of sums rightfully belonging to them and have incurred substantial monetary damages.

**Second Claim For Relief**  
***Breach of Contract***

30. Plaintiff re-alleges Paragraphs 1-29 of this Complaint and adopts same as though fully set forth herein.

31. During the Class Period, the lease agreements provide that owner-operator compensation was to be based upon a percentage of the line haul and accessorial service charges applicable to that shipment, as set forth in Exhibit A.

32. During the Class Period, however, the amounts of the actual line haul and accessorial service charges, were *not* used to calculate owner operator compensation. Rather, Atlas and/or Ace and the members of the Defendant Class used *understated* line haul and accessorial service amounts to calculate owner-operator compensation.

33. The failure or refusal of Atlas and/or Ace and the members of the Defendant Class to calculate owner-operator compensation based upon the *actual* line haul and accessorial service charges constitutes a breach of the lease agreements between them and Plaintiff and the members of the Plaintiff Class.

34. As a direct and proximate result of the breaches of contract committed by Atlas, and/or Ace and the members of the Defendant Class, owner-operators, including Plaintiff and the

members of the Plaintiff Class, have incurred substantial monetary damages and are entitled to recover no less than the difference between the actual line haul and accessorial service charges minus the understated line haul and accessorial service amounts that Atlas and/or Ace and the members of the Defendant Class used to calculate owner-operator compensation, times the applicable percentage specified in the lease agreements that they entered into with Plaintiff and the members of the Plaintiff Class.

**Third Claim For Relief**  
***RICO Violations***

35. Plaintiff re-alleges Paragraphs 1-34 of this Complaint and adopts same as though fully set forth herein.

36. At all relevant times, Plaintiff and Atlas and/or Ace are each a “person,” as that term is defined in Section 1961(3) of RICO, 18 U.S.C. § 1961(3).

37. At all relevant times, Atlas and/or Ace and the members of the Defendant Class constitute an “enterprise,” as that term is defined in Section 1961(4) of RICO, 18 U.S.C. § 1961(4). As a cooperative, Atlas and its owners-agents constituted a “legal entity” RICO “enterprise.” In the alternative, Atlas and its owners-agents constituted an association-in-fact “enterprise” because (a) Atlas and its owners-agents had a common purpose to operate a profitable moving van line and wrongfully increase their respective profits by underpaying Plaintiffs and the members of the Plaintiff Class; (b) Atlas and its owners-agents had and maintained relationships with each other, such relationships being defined by contractual agreements between and amongst them, as well as their common course of dealings; and (c) Atlas and its owners-agents had and evidenced requisite longevity because they carried out the above-referenced scheme to defraud Plaintiff and the members of the Plaintiff Class for a number of years. At all relevant times, the “enterprise” or “enterprises” described in this

paragraph affected interstate commerce because Atlas and its owners-agents regularly transported shipments across state lines.

38. During the Class Period, Atlas and/or Ace and the members of the Defendant Class committed numerous acts of “racketeering activity,” as that term is defined in Section 1961(1) of RICO, 18 U.S.C. § 1961(1), namely, violations of the federal mail fraud statute, 18 U.S.C. § 1341, by mailing false and misleading driver settlement sheets to Plaintiff and the members of the Plaintiff Class on a regular basis. For example, Plaintiff received false and misleading driver settlement sheets by U.S. mail on a regular basis between October 2007 and July 2009, a 21-month period, from Ace, a member of the Defendant Class defined in ¶ 8(b) of this Complaint.

39. During the Class Period, Atlas and/or Ace and the members of the Defendant Class engaged in a “pattern of racketeering activity,” as that term is defined in Section 1961(5) of RICO, 18 U.S.C. § 1961(5). On numerous occasions, Defendants Atlas and/or Ace and the members of the Defendant Class either mailed, or caused to be mailed, false and misleading settlement sheets to Plaintiff and the members of the Plaintiff Class. The predicate acts of mail fraud were related to each other because the false and misleading settlement sheets were mailed to Plaintiff and the members of the Plaintiff Class as part of a uniform scheme or artifice to defraud them. The predicate acts of mail fraud both (a) extended over a substantial period of time and/or (b) by their very nature, and the nature of the alleged scheme to defraud Plaintiff and the members of the Plaintiff Class, project into the future with a threat of repetition.

40. During the Class Period, Atlas and/or Ace and the members of the Defendant Class, each of them being associated with the enterprise or enterprises identified in ¶ 37 of this Complaint, conducted or participated, directly or indirectly, in the conduct of the

affairs of such enterprise or enterprises, through a pattern of racketeering activity, in violation of Section 1962(c) of RICO, 18 U.S.C. § 1962(c). During the Class Period, Atlas and/or Ace directed or conducted the affairs of and participated in the operation or management of the enterprise or enterprises identified in ¶ 37 because, as alleged in ¶ 4(b) of this Complaint, Ace joined Atlas no later than 1988 and, upon information belief, has historically been and continues to be one of the top revenue-producing agents in the Atlas network. Further, because of Ace's past and, upon information and belief, present leadership positions held within Atlas, Ace played and plays a high level role in shaping the way Atlas does business. According to information contained on Atlas's own website, John W. Steiner, Chairman of the Board of Ace, was a director of Atlas and, upon information and belief, continues to be a director and stockholder of Atlas.

41. Plaintiff and the members of the Plaintiff Class have been injured in their business or property by reason of the RICO violations committed by Atlas and/or Ace and the members of the Defendant Class. As alleged in this Complaint, Plaintiff and the members of the Plaintiff Class have sustained monetary injury in the amount of the underpayments made by Atlas and/or Ace and the members of the Defendant Class, as alleged in ¶¶ 18-23. Under Section 1964(c) of RICO, 18 U.S.C. § 1964(c), Plaintiff and the members of the Plaintiff Class are entitled to maintain this action and are entitled to recover threefold the damages sustained and the costs of bringing this action, including reasonable attorneys' fees.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands that the Court enter judgment as follows:

A. Determining that this action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, certify Plaintiff as representative of the Plaintiff Class and

appoint his attorneys as counsel for the Class; and

B. Determining that this action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, certify Ace as representative of the Defendant Class; and

C. Determining that this action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, certify Defendant Ace as representative of the Defendant Class; and

D. Declaring that conduct engaged in by Atlas and/or Ace and the members of the Defendant Class is in violation of the Motor Carrier Act and enjoining them from continuing to implement their unlawful conduct to reduce Plaintiff's and Plaintiff Class members' compensation and ordering Defendants Atlas and/or Ace and the members of the Defendant Class to take such actions necessary to remediate their policies and practices in compliance with 49 C.F.R. Part 376, Lease and Interchange of Vehicles;

E. Awarding Plaintiff and the members of the Plaintiff Class compensatory damages, in an amount to be proven at trial, as well as treble damages, against Atlas and/or Ace and the members of the Defendant Class;

F. Awarding Plaintiff and the members of the Plaintiff Class pre-judgment and post-judgment interest;

G. Awarding Plaintiff and the members of the Plaintiff Class their costs of suit, including reasonable attorneys' fees; and

H. Granting Plaintiff and the members of the Plaintiff Class such other and further relief as the Court deems just and proper.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury.

Dated: May 14, 2013

Plaintiff,

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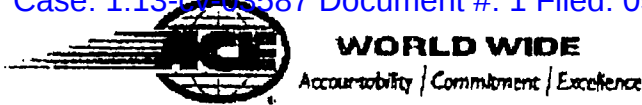
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**Attorneys for Plaintiff**



# **EXHIBIT A**



## CONTRACTOR AGREEMENT ADDENDUM #1

This Contractor Agreement Addendum #1 (Addendum #1) is between (check one of the following designated in this Addendum #1 as Company ("Company"), and the undersigned ("Contractor"), companies):

- ☐ Ace World Wide Moving & Storage Co. (Ace 16),
- ☐ Ace World Wide Moving & Storage Co., Inc. (Ace 24),
- ☐ American Moving & Storage, Inc. (Ace 224),
- ☐ National Sunshine Moving & Storage, Inc. (Ace 32),
- ☐ Ace World Wide Moving & Storage/Eastern Agents, Inc. (Ace 33),
- ☐ Bloomington Moving, Inc. (Ace 35),
- ☐ American Ace of Oklahoma, Inc. (Ace 226)
- ☐ Ace World Wide of Nevada, Inc. (Ace 711)
- ☐ Ace World Wide Moving, Inc. (Ace 1547)

This Addendum #1 is made a part of the Contractor Agreement and all Schedules attached thereto currently in effect between Company and Contractor. The Contractor Agreement and all Schedules attached thereto remain in full force and effect with the exception of the following changes or additions:

### 1. NEGATIVE SETTLEMENT/LEASEE DEFAULT CLAUSE:

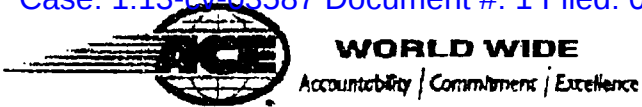
If Contractor has an active equipment lease with the option to purchase with Company, then the following applies:

If no lease payments are applied due to a negative settlement for a period of more than 3 months (6 settlements), Lessor shall have the right to terminate the equipment lease agreement per section 13 of lease agreement.

"13. Lessee's Default In case of the Lessee's failure to pay the rentals when due, or the failure to fulfill or perform the conditions imposed upon the Lessee by this Lease, the Lessor shall have the right, at its option, to declare all unpaid rentals past due and payable. At any time when the Lessee is in any such default, the Lessor may take possession of the Vehicle, including added and substituted parts, accessories and equipment, and this Lease shall cease and terminate."

### 2. CONTRACTOR TRUCK RENTALS:

If Contractor enters into a personal truck rental contract with a 3<sup>rd</sup> Party under Ace's name and the rental is invoiced to and paid by Ace on their behalf, a 15% surcharge will apply and will be deducted from their settlement.



### **3. DISCRETIONARY 3<sup>RD</sup> PARTY PAYMENTS ON BEHALF OF CONTRACTOR:**

Company will no longer be able to provide 3<sup>rd</sup> party payment services for any tax liens, or any other court-ordered payments including child support. Company also will no longer provide any other payments to discretionary 3<sup>rd</sup> parties on the request of contractor. Contractor will be fully responsible for all payments to these 3<sup>rd</sup> parties. Transition time and notification process will be established individually.

See Contractor Agreement Item 13, Deductions and Chargebacks, section 21, Attorney and other fees, # (4). This section will be eliminated as Ace World Wide as the "Company" is not required by law to make these deductions from Independent Contractors.

(4) Any amount required by law, including amounts for payment of tax liens and any other court-ordered payments, including child support.

### **4. SALES SUBSIDY**

Accessorial Payout will decrease by 3% for a 9 month period from 4/1/09 through 12/31/09.

Additional 2% of Linehaul paid on Non National Account / COD moves with over 66% discount on current ATVL1000 rates.

### **5. UPDATED QUALITY PERFORMANCE**

Container revenue paid only if the following quarterly quality scores are met. Ratings in a minimum 2 of the 4 categories are required this is for only Atlas Interstate work only.

Cartus Average Score:	1.40 or below
Prudential Average Score:	4.60 or above
Atlas Average Score:	4.60 or above
Kraft Average Score:	8.00 or above

CONTRACTOR AGREEMENT

This Contractor Agreement ("Agreement") is between (check one of the following companies):

- ☐ Ace World Wide Moving & Storage Co. (Ace 16).
- ☐ Ace World-Wide Moving & Storage of St. Paul, Inc. (Ace 17).
- ☐ Ace World Wide Moving & Storage Co., Inc. (Ace 24).
- ☐ American Moving & Storage, Inc. (Ace 224).
- ☐ National Sunshine Moving & Storage, Inc. (Ace 32).
- ☐ Ace World Wide Moving & Storage/Eastern Agents, Inc. (Ace 33).
- ☒ Ace Relocation Services Joint Venture. (Ace 35).
- ☐ Bloomington Moving, Inc. (Ace 36).
- ☐ Ace World Wide of Nevada, Inc. (Ace 711)
- ☐ Ace World Wide Moving, Inc. (Ace 1547)

designated in this Agreement as Company ("Company"), and the undersigned ("Contractor").

RECITALS: The Company is engaged in one or more of the following lines of business:

- 1 Serves as an agent for Atlas Van Lines, Inc. ("Atlas"), a carrier engaged in the business of interstate transportation of goods by motor vehicle under a registration with the U.S. Department of Transportation ("DOT").
2. Provides intrastate and local transportation of goods by motor vehicle under the Company's Authority.

Contractor is the owner of the motor vehicles (the "Equipment") described in Schedule A to this Agreement, and desires to operate the Equipment and performs transportation services as an independent contractor on behalf of the Company to transport goods under Atlas' authority ("Atlas Authority") and/or transport goods under the Company's Authority ("Ace Authority").

In consideration of their mutual covenants and conditions, Contractor and Company agree that Contractor will operate the Equipment as Company may require in connection with Company's operations and perform the other services stated for and on behalf of Company, acting in such capacity, subject to the following terms and conditions:

1. RELATIONSHIP.

(a) Contractor is an independent contractor only and is not the employee of the Company or Atlas for any purpose whatsoever. Nothing in this Agreement shall be deemed to create an agency, subagency, joint venture, partnership or any other legal relationship between Company and Contractor except that of principal and independent contractor. No legal relationship, other than as independent contractor, between Contractor and Atlas shall be established by this Agreement nor shall this Agreement be the basis of any liability of Atlas to Contractor, it being the intent of the parties that the relationship of Contractor shall at all times be with Company and not with Atlas, provided that (1) this Agreement shall constitute a lease and receipt for the Equipment required by the DOT regulations and other federal and state regulatory bodies applicable to the services provided; and (2) Contractor authorizes Company to lease the Equipment to Atlas under a separate Motor Vehicle Lease Agreement when the Contractor transports goods under Atlas Authority. In addition, the fact that Company may be required to comply with various rules, regulations and requirements of Atlas and applicable law in conducting its business on behalf of Atlas under its agreements with Atlas and, in turn, to require compliance with such rules, regulations and requirements by Contractor, some of which are reflected in this Agreement, shall not establish any legal obligation of Atlas to or with Contractor. Contractor is responsible for compliance with all Department of Homeland Security rules and regulations that relate to the Contractor's business.

(b) Neither party shall, without the written consent of the other, pledge the name or credit of the other or incur debts, obligations, or liabilities for which the other will be charged. Contractor is not required to purchase or rent any products, equipment, or services from Company as a condition of entering into this Agreement.

(c) Contractor will operate as an independent business offering use of Contractor's services to Company for the term of this Agreement and will assume full responsibility for the management of Contractor's business and finances, including but not limited to payment of wages, social security, and all applicable Federal, state and other taxes and assessments, as legally required, for Contractor and any and all persons employed or used by Contractor in any capacity, and maintaining any records Contractor chooses, in addition to those required by applicable laws, rules and regulations.

(d) Contractor reserves the right and obligation to:

(1) employ any qualified persons (the Company will review and approve the qualifications of such persons) to operate the Equipment and any other persons and to manage and direct all aspects of such employment, including setting rates of pay and determining the number of hours to be worked by and holidays and vacation periods for Contractor and Contractor's employees.

(2) operate over any route or combination of routes that Contractor selects under such time schedules as Contractor selects, subject to compliance with applicable laws, rules, regulations and requirements.

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(3) accept or reject any assignments tendered to Contractor by Company; provided that Contractor will not refuse any load after having accepted a dispatch except for good cause beyond Contractor's reasonable control such as mechanical breakdown, driver illness, or delays in the delivery of a preceding load or loads; provided that Company's obligation to offer assignments to Contractor may be diminished or extinguished by Company in the event of Contractor's refusal of loads offered, particularly if such refusals are relatively frequent or without good cause.

(4) in all ways operate the Equipment as an independent contractor, subject to such provisions of the ICC Termination Act of 1995 that require control with respect to service, territory to be served, rates to be assessed and documents to be executed and delivered to the Company or Atlas under Atlas Authority

(5) comply with the Company's contract facilitation procedures and driver manual for Contractor; Contractor acknowledges receipt of such procedures and driver manual.

## **2. QUALIFICATION; INSPECTION; PAINTING; SUBSTITUTION OF THE EQUIPMENT.**

(a) This Agreement constitutes the lease agreement and receipt for the Equipment required by the DOT regulations, with Company acting as an agent for Atlas for services under Atlas Authority provided that Company may enter into a separate Motor Vehicle Lease Agreement with Atlas under Atlas Authority covering the Equipment.

(b) Contractor represents and warrants that the Equipment is now in good mechanical condition and repair and meets the DOT rules and regulations. Contractor will at all times and at Contractor's own cost and expense maintain the Equipment in good operating condition and in compliance with such rules and regulations and the rules and regulations of Company or Atlas under Atlas Authority. Before commencing operation of the Equipment, and at any time, Company or Atlas under Atlas Authority may inspect or require the inspection of the Equipment. If the Equipment does not comply with the rules and regulations of Company or Atlas under Atlas Authority and the rules and regulations of the DOT, it shall not be operated under this Agreement. In such event, Contractor will repair and remedy the defects in order that the Equipment complies with all such rules and regulations.

(c) Upon execution of this Agreement, Company may extend and Contractor may accept a credit in an amount up to \$1,500 to paint the Contractor's tractor in accordance with the Company's or Atlas' (under Atlas Authority) standard specifications, including paint type and/or logo. This painting shall be accomplished at an establishment of the Company's choosing. If this Agreement remains in full effect for twenty months from the date of execution, the amount of credit extended for this purpose shall be forgiven. If this Agreement is terminated for any reason prior to the expiration of twenty months, a pro rata amount of the credit extended will be immediately due and payable to the Company by the Contractor.

(d) Contractor will not substitute or replace the Equipment without the prior written consent of Company. If another piece of equipment is substituted or replaced for that Equipment provided under this Agreement, all the terms and conditions of this Agreement shall apply to such substituted equipment. When Equipment is withdrawn from the service of the Company and/or Atlas, the Contractor shall immediately, at Contractor's own expense, remove all Company's and Atlas' colors, insignia, logo and advertising therefrom, and eliminate all permit and certificate numbers that may designate such vehicle as operating in the service of Company or Atlas.

(e) Contractor shall furnish Company not less than three weeks written notice of Contractor's intention to replace the Equipment so that necessary applications and proper registration can be made to properly qualify it in Atlas' service (under Atlas Authority). Contractor shall pay any additional fees or costs incurred in the process of qualifying the replacement equipment.

### 3. OPERATION OF THE EQUIPMENT AND ADDITIONAL OBLIGATIONS OF CONTRACTOR.

Subject to the provisions of Section 1,

(a) All operations while the Equipment is being operated for Atlas under Atlas Authority are and shall be subject to the exclusive control and direction of Atlas to the extent required by the ICC Termination Act of 1935.

(b) Contractor shall load, pick up, transport, unload and deliver all shipments accepted by Contractor as instructed by Company. Under Atlas' rules (under Atlas Authority), shipment dispatch may come directly from Atlas.

(c) Transportation under Atlas Authority shall be conducted under Atlas' waybills, bills of lading, freight bills, manifests, and other shipping documents as required by Federal and state regulations and Atlas' requirements.

(d) The Equipment shall be operated in full compliance with all Federal, state and local laws, statutes, ordinances, rules and regulations relating to the operation of motor vehicles including, but not limited to, contracting or licensing, speed, safety devices and equipment, weight, tonnage, width, height and length restrictions.

(e) The Equipment shall be operated only by individuals who are qualified as drivers in accordance with DOT regulations, Company policies and Atlas requirements (under Atlas Authority) and Contractor shall reimburse Company for any costs incurred by Company for investigation or qualification services, including physical examinations and drug screens, performed on Contractor and co-drivers or helpers associated with the Contractor, and all costs incurred in maintaining the qualification of any driver.

(f) Contractor shall pay all operating expenses of the Equipment during the time it is operated on behalf of Company, including, but not limited to, fuel, fuel taxes, inspection reports, highway and bridge tolls, ferry charges, scale tickets and charges of any kind arising in connection with the procurement and servicing of the Equipment and its operation. Fuel taxes assessed will be calculated on total fuel purchased and taxes paid on the basis of five miles per gallon times the applicable state fuel tax rate.

(g) Contractor shall be liable for all fines, penalties and administrative charges assessed against Contractor and any of Contractor's personnel and/or the Equipment by any Federal, state or local government or by Atlas against Company (under Atlas Authority) with respect to Contractor, any of Contractor's personnel and/or the Equipment, except that Atlas shall be liable for fines for overweight and oversize trailers if the trailers are pre-loaded and sealed, or the load is containerized, or when the trailer or loading is otherwise outside of Contractor's control, and for improperly permitted overdimension or overweight loads and Company shall reimburse the Contractor any such fines paid by Contractor in these instances. Atlas will not be responsible for overlength fines unless the trailer provided by Atlas exceeds the legal size. If Company is required by Atlas to pay any fine or penalty for which Contractor is responsible, Contractor shall reimburse Company any amount paid. Atlas and the Company has the right to change its penalties and administrative charges at any time upon notice to the Contractor.

(h) Contractor shall prepare, maintain, and file with Atlas under Atlas Authority all logs, records, reports and other documents required by Federal and state laws and deliver them to the place and within the time specified by rules governing such operations. If Contractor fails to comply with this provision, Contractor shall be liable to Company for any and all additional expense and handling charges incurred by Atlas and charged to Company by reason of the lateness or non-delivery of such logs, records, and other documents.

(i) At any time upon demand of Company, Contractor shall return and deliver to Company or its designee any and all shipments being carried by Contractor under this Agreement; any and all documents relating to such shipments; and any and all property of the Company or Atlas (under Atlas Authority) in Contractor's possession or under Contractor's control. In that Company and, in turn, Atlas under Atlas Authority shall have the right to immediate possession of such shipments, documents, and property under any and all circumstances. Under no circumstances does Contractor acquire any right or interest in such shipments, documents or property. Contractor shall pay any costs or expenses incurred by Company, including costs assessed by Atlas under Atlas Authority, in obtaining any shipment, property or document under this Section.

(j) Contractor shall report to Company or, as applicable, Atlas, in the manner and as requested by Company or Atlas, all data in connection with the Contractor's performance under this Agreement in sufficient form and detail to enable the Company or Atlas under Atlas Authority to make all reports required by law and will keep Company informed on a daily basis as to Contractor's whereabouts and of the contents of Contractor's unit.

(k) Contractor shall notify Company's Safety Department by telephone within two hours after the occurrence of any accident involving the Equipment while being operated under this Agreement. If Contractor fails to comply



with this provision. Contractor shall pay to the Company the sum of \$500 as liquidated damages for non-compliance. Contractor shall notify the Atlas' Safety Department of any accident involving the Equipment while being operated under this Agreement under Atlas Authority by 5:00 p.m., Central Time, on the next business day. Contractor shall notify Company or Atlas under Atlas Authority as soon as is practical of any situation or occurrence within Contractor's knowledge which affects, or is likely to affect, the interests of the Company or Atlas (under Atlas Authority), including any damage to, loss of, or delay in, delivery of cargo in the custody or possession of Contractor. Contractor shall pay Company a minimum charge of \$50.00, regardless of actual incurred expense, and Atlas's actual incurred expenses up to a maximum of \$500.00 for each chargeable vehicular accident while operating for Atlas as charged to the Company by Atlas.

(l) Contractor is responsible to Company for "delay" claims occasioned by Contractor's departure from the transit or delivery schedule previously agreed upon between Contractor or a driver for Contractor and Company or Atlas' Central Dispatch (under Atlas Authority), unless the delay is communicated to Company or Atlas' Central Dispatch (under Atlas Authority) prior to the end of the next working day following the departure from schedule and a new agreement is mutually reached.

(m) Contractor shall provide a sufficient quantity of uniforms meeting Company or Atlas' (under Atlas Authority) then current uniform specifications to enable all Contractor personnel to be in uniform on a daily basis and shall require the use of such uniforms by all Contractor personnel. Contractor is responsible for purchasing the uniforms (which may be purchased from the Company).

(n) Contractor shall provide ongoing telephone or electronic communication of loading, delivery, and transit schedules to Atlas' customers (under Atlas Authority), Company and, as required, Atlas' Operations Department (under Atlas Authority) and shall pay the costs of such communication.

(o) At the request of Company, the Contractor will furnish true copies of all tax returns and returns required under the laws of the Federal, state and local governments to Company.

#### 4. LICENSE FEES.

(a) The Contractor shall furnish a base state license on the Equipment. All property tax, Federal Highway Use Tax, or other assessments arising out of ownership of the Equipment will be the responsibility of and shall be paid by the Contractor. Any refund or credit Company may receive for base plates purchased by the Contractor will be refunded to Contractor at the termination of this Agreement subject to any final settlement.

(b) If this Agreement is terminated prior to the expiration of any license, registration plate, other identification insignia, cards, papers, registration fees or taxes that the Company has either paid for, credited the Contractor's account or otherwise furnished, the Contractor will deliver to the Company such license, registration plate, other

identifying insignia, cards, or papers with any signatures that may be required to effect a transfer or secure a refund from the governmental agencies involved. If Contractor fails to cooperate with Company to effect such transfer to secure such refund the Contractor shall be liable to Company for the amount of any refund the Company might otherwise enjoy or the cost of replacing or again paying for such license, registration fees, or taxes for the unexpired terms.

(c) Contractor shall pay for any and all expenses accrued for duplication of lost, misplaced, or stolen permits or plates and, in addition, all expenses of authorities needed until duplicate plates and permits can be secured.

#### **5. COMPANY-OWNED EQUIPMENT:**

(a) If Company furnishes Contractor a semi-trailer, owned by Company or another party, including Atlas (a "Trailer"). Contractor will use the Trailer in the performance of Contractor's obligations under this Agreement. Contractor will keep and maintain the Trailer in the same good repair and condition as when delivered to Contractor, normal wear and tear excepted, and keep it washed, greased, and cleaned as needed. Contractor will comply with the rules and regulations of Company in respect to the maintenance and care of any Trailer. Company will reimburse Contractor for any and all expenses incurred on a Trailer except expenses resulting from the negligence of Contractor or wear and tear beyond normal or customary usage. Company will provide Contractor with dollies, pads, and other such equipment Company deems necessary in connection with the operation of any Trailer. Contractor shall be responsible for all such equipment and will maintain it in good condition and repair. The Company can inspect the Trailer and equipment at any time. After the Company inspection or upon the return of such equipment to Company, Contractor will pay for any loss, shortage, or damage to same, normal wear and tear excepted. Contractor will pay Company the full cost to repair the Trailer or equipment required as a result of Contractor's negligent or intentional acts.

(b) Contractor shall pay the cost of recovery, transportation and repair of equipment assigned to Contractor by Company, including a Trailer, if applicable, that Contractor abandons or causes to be abandoned.

#### **6. LOSS AND DAMAGE.**

(a) As required by 49 U.S.C. §13906 Atlas maintains insurance coverage for the protection of the public. Under the agreement between Company and Atlas, Atlas has full authority to take any action it determines with respect to all claims made by any party arising on shipments transported under this Agreement under Atlas' authority, which authority may be delegated to Company, and Contractor authorizes Atlas, who may act through Company, to act in Contractor's name and behalf with respect to such claims. Atlas and/or Company shall determine, from existing documents and/or investigation by a claims representative, the extent to which Contractor is responsible to Atlas or Company for any claim and any such determination shall be final and conclusive between the parties. Regardless of when a cargo claim is filed, whether during or after termination of this Agreement, Contractor shall

be liable to Company and, in turn, Atlas for loss or damage to cargo on shipments hauled by Contractor under this Agreement under Atlas Authority in the following amounts:

(1) Under Atlas Authority, the basic chargeback amount (the "Basic Chargeback") for damaged or destroyed articles is the cost to Atlas to repair or replace any article. Unless otherwise set forth, the Basic Chargeback shall be a maximum of \$200 per shipment.

(2) Under Atlas Authority, Atlas shall establish a claims liability ratio for Contractor (the "Claims Ratio") when Contractor has hauled at least 100,000 pounds of shipments moving on Atlas' bills of lading during a calendar year, whether under this Agreement or under a prior agreement with Company, Atlas or any other agent of Atlas. The Claims Ratio shall be the entire cost of the damage or destruction Claims that Atlas has determined Contractor is responsible for during the calendar year for which it is determined, divided by the total pounds hauled. The Claims Ratio shall be recalculated annually and, when calculated or recalculated, shall be applicable from August 1 of the year after that for which it was calculated, through July 31 of the next year. If a Contractor has an applicable Claims Ratio, the maximum Basic Chargeback shall be the amount set forth opposite the Contractor's applicable Claims Ratio:

Claims Ratio per 10,000 lbs.	Basic Chargeback
.01 - 5.00	\$ 50.00
5.01 - 10.00	100.00
10.01 - 25.00	150.00
25.01 - 50.00	200.00
50.01 - 75.00	225.00
75.01 - 100.00	250.00
100.01 - 150.00	300.00
150.01 - 200.00	350.00
200.01 - 250.00	450.00
250.01 & Over	500.00

(3) Under Atlas Authority, if there is damage to any automobile included in a shipment, the actual cost to repair the automobile, up to a maximum of \$500 per shipment, shall apply in addition to the Basic Chargeback for any other damaged or destroyed articles.

(4) Under Atlas Authority, if Contractor is responsible for damage or destruction in an amount in excess of \$1,000 on a shipment, excluding catastrophic losses, an amount equal to 25% of the excess over \$1,000 up to twice the Basic Chargeback, shall be added to the Basic Chargeback.

(5) Under Atlas Authority, if the shipment was transported under Atlas tariffs 500 or 2000-B, or any substitution or reissue of such tariffs, the maximum Basic Chargeback shall be \$500 per shipment in lieu of that under either (1) or (2).

(6) Under Atlas Authority, the chargeback amount for articles lost or missing from a shipment (the "Loss Chargeback") is the full amount of Atlas' cost to replace the article, subject to a maximum of \$350 per article and \$700 per shipment, provided that the maximums shall be \$500 per article and \$1,000 per shipment on any claims made for additional lost or missing articles within six months of a prior Loss Chargeback. A Loss Chargeback and a Basic Chargeback may apply on the same shipment.

(7) Under Ace Authority, the Basic Chargeback for damaged or destroyed articles is the cost to the Company to repair or replace any article with a maximum of \$1,000 per shipment.

(8) Under Ace Authority, if a Contractor is responsible for damage or destruction in an amount in excess of \$1,000 on a shipment, excluding catastrophic losses, an amount equal to 25% of the excess over \$1,100 up to twice the Basic Chargeback shall be added to the Basic Chargeback.

(9) Under Atlas or Ace Authority, if Contractor fails to use generally accepted or prescribed procedures for the handling of Atlas' or the Company's shipments, the Basic Chargeback and/or Loss Chargeback may be 100% of Atlas' or the Company's costs plus any claim settlement costs. For example, this would include, but not be limited to, recurring damage or loss involving the same or similar items; water damage resulting from failure to repair a known leaky trailer; damage to automobiles or boats due to using improper support decking; repeated damage to the legs of tables and chairs; and damages from the use of unauthorized or unqualified drivers.

(b) When the Contractor or Contractor's employees damage either the interior or exterior of any customer's premises, or a customer's driveways, curbs, lawns, shrubbery or any other real property, the Contractor shall be responsible for the cost of all repair.

(c) Company shall provide Contractor a written explanation and itemization of any deductions for cargo or property damage made from any compensation earned by Contractor.

## **7. INSURANCE AND BONDS.**

(a) Contractor will cooperate fully with Company in furnishing any and all information necessary for the bonding of Contractor or any of Contractor's employees. Contractor will immediately pay Company the current cost for each bond secured by Atlas covering either Contractor or Contractor's employees.

(b) Company may carry any and all insurance that it shall deem necessary to protect itself, including insurance on any of its equipment. Company does not assume any liability of any nature to the Contractor for any loss or

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damage that the Contractor may sustain to the Contractor's Equipment, whether such loss or damage may result from fire, theft, collision, or other casualty.

(c) The Contractor shall maintain and keep in force public liability and property damage insurance covering both the bobtail operations of the Equipment and operations when not under dispatch of the Company and/or Atlas. Insurance coverage requirements are set forth in Schedule C.

(d) The Contractor shall maintain and keep in force policies of worker's compensation insurance covering Contractor and all persons employed or engaged by Contractor. Insurance coverage requirements are set forth in Schedule C. If the conditions of Schedule C are met, the Contractor may maintain and keep in force occupational accident insurance.

(e) Whenever the Contractor is required under the terms of this Agreement, or by a written request made by the Company during the term of this Agreement, to obtain and maintain insurance, Contractor will obtain such policies only from companies that meet Company's and Atlas' (under Atlas Authority) then current requirements and will furnish copies of the insurance policy or a certificate of insurance to Company and Atlas. All such insurance shall name the Company and Atlas (under Atlas Authority) as an additional insured and shall contain a provision to the effect that the coverage may not be modified, canceled, revoked, amended or in any other manner altered except upon 30 days advance written notice to Company and Atlas.

(f) Contractor may purchase the insurance required in this Agreement through the Company's or Atlas' insurance program at the limits described in Schedule C, at the rates as they are then in effect for these coverages. Any premiums for insurance coverages obtained from Company or Atlas shall be immediately deducted from all amounts due Contractor from Company. Company or Atlas shall provide to Contractor a Certificate of Insurance for each insurance policy that shall include name of insurer, policy number, effective date, amounts and types of coverage and any deductible amount for which Contractor is liable. In any instance in which the Contractor is required to obtain insurance but fails to do so, Company is authorized, but not required to obtain the insurance and charge the cost to the Contractor. If Company obtains an individual insurance policy for Contractor, Company shall provide a copy of such policy to Contractor on request.

#### **8. INDEMNIFICATION.**

Subject to any specific limitations contained elsewhere in this Agreement, Contractor will indemnify, save and hold Company and Atlas free and harmless from and against any and all claims, demands, liabilities, direct or consequential damages, losses, judgments, awards and causes of action at law or in equity, including but not limited to those involving injury to, or death of, Contractor's employees and/or third parties, damages to property, including but not limited to, cargo, attorney's fees and all costs of litigation and from and against any obligation arising out of or attributable to any action or neglect of Contractor or of any of the personnel employed by

Contractor in connection with the operation or maintenance of the Equipment, and in connection with Contractor's performance of transportation and other services under this Agreement.

**9. COLLECTIONS AND REMITTANCES.**

(a) Contractor, as a trustee, will collect and account for, in cash or by certified check or money order payable to Company or Atlas (under Atlas Authority), or by such other means as Company or Atlas shall from time to time allow, all monies due Company or Atlas for the transportation of any shipment, together with any and all charges arising out of or in connection with such transportation, in accordance with the bill of lading, shipping contract, or other written instructions covering each shipment transported. Contractor will hold such funds in trust and promptly remit all collected monies, together with weight tickets and properly signed bills of lading and invoices, to the offices of Company. Contractor will forward such funds to the Company within seven days of delivery of shipment otherwise Company will charge the Contractor for such funds. Contractor is not authorized to extend credit or make any adjustments in any of the items of collections except under prior written authorization from Company or Atlas. Contractor will not deliver any shipment until all COD charges have been collected in cash, certified check, money order or other method authorized by Company or Atlas, unless otherwise instructed by the Company or Atlas. Any losses by Company or Atlas resulting from thefts, defalcation or falsified documents, or failure by drivers or other employees of Contractor relative to the collection, return and transmittal of monies collected shall be borne solely by Contractor.

(b) All such monies are the exclusive property of Company or Atlas (under Atlas Authority), regardless of the status of the account between Company and Contractor, and may not be used as an offset against claims of the Contractor. The retention or use by Contractor of any part of such monies for any purpose, other than to pay it over to Company or Atlas as provided or as otherwise authorized in writing by Company or Atlas, is a misappropriation of Company's or Atlas' property, whether done by Contractor directly or by any of Contractor's agents, servants or employees.

**10. CASH RESERVE ACCOUNT.**

(a) Contractor will deposit or accumulate and maintain with Company a cash reserve in the amount set forth in Schedule D. The Cash Reserve Account shall be deposited with Company before any Equipment furnished by Contractor shall be operated in the business of Company under this Agreement, or, in the alternative, Company may permit such Cash Reserve Account to be accumulated by deduction by Company from the amount specified in Schedule D as available for this purpose to be credited to Contractor's Cash Reserve Account, such deductions to continue until the accumulation of the required Cash Reserve Account. Company will pay Contractor interest on the Cash Reserve Account quarterly. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon yield on a 91-day, 13 week Treasury Bill as established in weekly auctions at the Department of Treasury. Company may apply the Cash Reserve Account to those items specified in Section 13.

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(b) Upon termination of this Agreement or at any time that the Cash Reserve Account, once fully funded, falls below the amount set forth in Schedule D, Company may deduct from any other amounts due Contractor and place in the Cash Reserve Account such sum as is needed to bring the amount in the Cash Reserve Account to the sum set forth in Schedule D.

(c) Company shall provide an accounting to Contractor of any transactions involving the Cash Reserve Account by clearly indicating either on individual settlement sheets or in a separate document the amount and description of any deduction or addition made to the Cash Reserve Account. Contractor may demand to have an accounting for transactions involving the Cash Reserve Account once a month, provided that Company shall satisfy this obligation by furnishing Contractor with either copies of the documents maintained as its accounting of the transactions in the Cash Reserve Account or computer generated summaries of the same information contained on such documents.

(d) The Contractor must fulfill the obligations specified in Section 14(c) in order for the Cash Reserve Account to be returned. The Cash Reserve Account less any amounts then remaining due Company from Contractor, shall be refunded to Contractor no later than 45 days from the effective date of termination of this Agreement, which shall be the date that Contractor fulfills the obligations in Section 14(c). The return of the Cash Reserve Account shall not terminate any liability that Contractor may have to Company under any other provision of this Agreement.

#### **11. PAYMENTS TO CONTRACTOR.**

(a) Contractor shall earn compensation as provided in the schedule of compensation included in Schedule E attached to and made a part of this Agreement on each individual shipment assigned to Contractor for transportation services proportionally as Contractor performs the required and assigned services on such shipments. In making settlement between the Company and the Contractor for services performed and compensation earned under this Agreement, each shipment assigned shall be considered separately and shall be fully earned only on the completion of all transportation services by the Contractor and the delivery to the Company or Atlas (under Atlas Authority) by Contractor of all necessary transportation documents, fully executed as may be needed to properly substantiate Company or Atlas' services, to secure payment from the shipper. Any losses to the Company resulting from Contractor providing falsified or incorrect documents or not providing the documents below shall be borne solely by Contractor.



(b) The necessary transportation documents and other documents that are required to be delivered to the Company or Atlas as a condition precedent to payment of earned compensation are as follows:

(1) On all shipments:

(A) The bill of lading and freight bill, issued for the shipment, signed at delivery by the shipper, consignee or warehouseman.

(B) Certified scale ticket(s), unless the driver is notified prior to shipment that these will not be required due to the terms under which the shipment is transported.

(C) Records of duty status (logs) as required by DOT regulations.

(2) On household goods shipments:

(A) Household goods descriptive inventory.

(B) Motor vehicle descriptive inventory, if items covered by that inventory are transported.

(C) Inventory of items of high value, if high value items are transported.

(D) Packing Service Report, if packing is performed.

(E) Additional Services Performed and Origin/Destination Service and Delivery Report, if any services covered by this form are provided.

(F) Any form required by government regulations on military shipments, including Military form(s) DD611, DD619-1 and/or DD1840.

(3) On other household goods shipments:

(A) Descriptive Inventory, if the inventory is not on the bill of lading.

(B) Additional Services Performed and Origin/Destination Service and Delivery Report, if any services covered by this form are provided.

(c) Company may, in its sole discretion, establish exceptions to the required delivery of the designated documents when, due to the type of shipment involved, the documents are unnecessary or Company or Atlas requirements are changed. Such exceptions shall be effective on notice to the Contractor.

(d) After the receipt of all required documents from the Contractor, on a bi-weekly basis, the Company shall make full payment to Contractor of all compensation earned for services performed on the shipments on which complete documentation has been provided, less any and all amounts for items specified in Section 13 then due and owing.

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(e) At the time of each payment to Contractor, Company shall provide a copy of a document in the form and using the designation established by Company, representing an accounting of the financial accounts and transactions between Company and Contractor.

(f) Financial entries made by Company on payment documents shall be conclusively presumed correct and final if not disputed by Contractor within 30 days after distribution. On the date 30 days after distribution, such documents shall constitute the primary and/or prima facie business record between Company and the Contractor with respect to financial transactions existing between the parties as reflected on the statements, and additional underlying documentation, in support of the documents, shall not be required as a matter of proof before any administrative or judicial tribunal.

(g) Should any payment document issued to Contractor show a negative balance due to insufficient compensation earned to cover expenses incurred, an additional charge in the amount or percentage set forth in Exhibit D will be assessed to the Contractor to reimburse Company for the interest expenses on the settlement shortage.

## 12. RIGHT OF INSPECTION OF DOCUMENTS.

If Contractor's revenue is based on a percentage of the gross revenue for a shipment, Company will give Contractor, at the time of settlement, a computer-generated document containing the same information that would be contained in a rated freight bill and will allow Contractor to view once a quarter, during Company's normal business hours, a copy of any actual document underlying the computer-generated document. Once a quarter on request, during regular business hours or arrangement by Company, Contractor may examine copies of Company or Atlas' existing tariffs or, in the case of shipments moved under contract, those portions of the documents from which rates and charges are computed containing the information that would appear on a rated freight bill.

## 13. DEDUCTIONS AND CHARGEBACKS.

(a) Any specified item that Contractor is required to pay under any provision of this Agreement may be deducted from or charged back to the Contractor's compensation at the time of any payment or from the Cash Reserve Account. All chargebacks or deductions shall be shown on a payment document issued by Company with information including the amount and description of any chargeback or deduction. The amount charged back or deducted for any item will be the actual, documented cost to Company, without mark up, except where Contractor liability is limited to less than actual Company cost by certain provisions of this Agreement or is otherwise specified. Included in the specific items that may be deducted or charged back, but not limited to them, are the items noted in the following Sections:

(1) Section 2 - (c) Paint and labor; (e) Additional fees or costs to qualify replacement equipment.

(2) Section 3 – (e) Driver qualification and qualification maintenance costs; (f) All Equipment operating expenses, including fuel taxes; (g) Fines, penalties and administrative charges; (h) Additional expense and handling charges charged to Company by Atlas (Under Atlas Authority) by reason of lateness or non-delivery of logs and other documents; (i) All costs of or charged to Company in obtaining possession of shipments, documents and property of Company and/or Atlas; (k) Charges and expenses in connection with chargeable accidents; (l) Delay claim payments; (m) uniform costs, (n) Communication costs.

(3) Section 4 – (a) License, registration, permit, identification insignia, and all other such fees and/or taxes or assessments; (b) Amounts not received as refunds due to Contractor's acts; (c) Expenses accrued for duplication of lost, misplaced or stolen permits, plates, and wire authorities.

(4) Section 5 – (a) Expenses of repair, maintenance, damage, loss or shortage of Trailers and equipment; (b) Costs incurred in recovery, transportation, and repair of abandoned equipment.

(5) Section 6 – (a) Cargo loss and damage claims amounts; (b) Real property damage claims.

(6) Section 7 – (a) Performance bonds; (b) Insurance charges and costs.

(7) Section 8 – Amounts to indemnify Company and/or Atlas.

(8) Section 9 – (a) C.O.D. transportation charges and any other transportation charges required to be collected by Contractor and losses from theft, etc. Funds not forwarded to the Company within seven days of delivery of shipment.

(9) Section 10 – (a) Cash Reserve Account deductions; (b) Cash Reserve Account maintenance amounts.

(10) Section 11 (a) losses due to falsified, missing or incorrect documents; (g) Interest charges, costs and expenses and liquidated damages.

(11) Section 14 – (a) Liquidated damages for failure to provide proper termination notice; (c) Termination charges, costs, and expenses and liquidated damages.

(12) Section 15 – Amounts due Company.

(13) Section 21 – Attorney and other Fees.

(b) In addition, Company shall be authorized to deduct or charge back the following specific items:

(1) An insurance fee in the amount of 4% of total billed charges on all military shipments under Atlas authority.

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(2) Under Atlas authority, a government bill of lading discount deduction of 1.5% of total distributable charges under Company bookings and or a deduction of 3.5% of total distributable charges under non-Company bookings, excluding BI/PD insurance charges and packing retention, on all government shipments.

(3) Any unearned amount that Company has advanced to Contractor.

(4) Any amount required by law, including amounts for the payment of any tax liens and any other court-ordered payments, including child support.

(5) Company will charge Contractor 10% of total revenue on a job for the use of one power unit for that job.

(6) Company or customer losses due to Contractor theft.

(7) Company losses resulting from Contractor not complying with morality provisions in contract facility procedures.

(8) Company will charge Contractor \$25 per bi-weekly contract payment for services provided by the Company in administering this Agreement.

(9) The cost of materials ordered by the Contractor from a vendor and charge to the Company's account with the vendor.

(10) The cost of expedited mail or delivery services requested by the Contractor.

(11) Any other amount authorized in writing by Contractor.

#### 14. TERM AND TERMINATION.

(a) The term of this Agreement shall be for one year from the date executed, and shall be automatically renewed from year to year unless terminated as follows:

(1) Either party may terminate this Agreement upon not less than 30 days written notice to the other. If Contractor terminates services under this Agreement without providing not less than a 30 day written notice to Company, Contractor will forfeit the balance in its Cash Reserve account as liquidated damages for non-compliance with this provision.

(2) At its option, Company may terminate this Agreement immediately by notice to Contractor if: (A) Contractor becomes insolvent, or makes a general assignment for the benefit of creditors or a receiver is appointed for Contractor or Contractor commits any act of bankruptcy; (B) Contractor is deemed financially insecure by Company or Company deems itself financially insecure respecting Contractor's finances or operation; or (C) Contractor breaches any of the terms, provisions, conditions or covenants of this Agreement.

(3) This Agreement shall terminate immediately upon any attempted assignment of it by Contractor.

(b) At the option of Company, a temporary suspension of Contractor's operations of one month per calendar year may be imposed or granted by Company. In addition, Company may, in lieu of cancellation of this Agreement, impose temporary suspensions for violations of contractual obligations. During any period of suspension, the Contractor shall place any Trailer(s) on Company's premises at the address listed, or at such other location as may be designated by Company, and shall remove from the equipment and place in Company's possession all license plates and permits, other than those purchased by the Contractor, and shall cover Company's and Atlas' name, symbols, insignia, and identification, on each tractor unit in such manner as to prevent identification of Company or Atlas with the tractor unit during the period of suspension.

(c) Upon receipt of any notice of termination from Company, Contractor shall:

(1) Immediately discontinue all operations under this Agreement provided that, upon Company's request Contractor shall complete delivery of any shipment that Contractor may then have in Contractor's possession and Contractor shall promptly return to Company's premises at the address listed (or at such other location as may be designated by the Company), any Trailer(s) and all other Company-owned equipment and documents, including bills of lading, inventories, and any and all shipping documents, materials, and other evidences of operating authority in Contractor's possession. If Contractor fails or refuses to comply with any provision in the preceding sentence, Contractor shall pay to Company upon written demand all costs and expenses (including reasonable attorney's fees) of Company in effecting the delivery of any shipment, in addition to any other amounts provided in this Agreement.

(2) Immediately remove all identifying trademarks, signs, color combinations, and lettering referring to Company or Atlas from the Equipment. If Contractor fails to comply with this provision within five days after receipt of notification, Contractor shall pay to the Company the sum of \$50 per unit of Equipment per day and for liquidated damages for each day of non-compliance; and, in addition, Company may withhold payment of any and all amounts due Contractor or that may become due Contractor until evidence is furnished to the Company by the Contractor that this compliance has been accomplished in accordance with Company's requirements.

(3) Complete and provide to the Company all outstanding records of duty status (logs) as required by DOT regulations.

(4) Company shall have the right to withhold final payment of any and all sums due Contractor until Contractor has fully complied with all the terms of this Section.

**15. RESERVED RIGHT OF SET-OFF BY COMPANY.**

Company reserves the right to deduct any amounts due Company from Contractor from any monies due to Contractor by the Company under this Agreement.

**16. SURVIVAL OF OBLIGATIONS.**

Contractor's obligations to Company for payment of any amount incurred while this Agreement is in effect, including specifically amounts with respect to any claim filed after the termination of this Agreement but relating to a shipment transported while the Agreement was in effect and Contractor's indemnity obligations under Section 8 shall survive the termination of this Agreement. The shippers and consignees of those shipments transported by Contractor on behalf of Company generally have a period of nine months after delivery to make claims against Company or Atlas; therefore, the amounts due from Contractor to Company may not be known for some time after termination of this Agreement. Company shall continue to prepare and send to Contractor statements after termination of this Agreement to the extent that information changes on the amounts due and Contractor shall immediately pay Company any amount shown as due to Company on such a statement upon receipt of the statement.

**17. NOTICES.**

Any and all notices required under this Agreement to be given by either party to the other shall be deemed to have been given upon mailing of the notice, if to Company to 1900 East College Avenue, Cudahy, WI 53110, or if to Contractor, to the address set forth under Contractor's signature.

**18. AMENDMENT OF SCHEDULES.**

The Schedules to this Agreement may be amended from time to time by Company. The amended Schedule or Schedules shall become effective when it or they are mailed to Contractor.

**19. WAIVER.**

The failure of either party to enforce at any time any of the provisions of this Agreement, or to exercise any option which is provided, or to require at any time performance by either party of any of its provisions shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part of it or the right of either party to enforce each and every such provision.

20. ASSIGNMENT.

Contractor will not assign or transfer this Agreement, and any attempt on the part of Contractor to assign, whether by operation of law, voluntary or otherwise, shall terminate this Agreement.

21. ATTORNEY AND OTHER FEES.

If the Company institutes or defends any action at law or in equity brought against or by Contractor and arising out of this Agreement and is successful in the action or in its defense, then Contractor shall be liable to Company for reasonable attorney's fees for Company in commencing or defending any such action or suit. In addition, Contractor is liable to Company for all other costs incurred by Company in enforcing this Agreement.

22. INTERPRETATION, LAW APPLICABLE, ETC.

This Agreement shall be interpreted under the laws of the State of Wisconsin and shall be subject to all Federal and state statutes, and the rules and regulations of the DOT. The Contractor submits to the jurisdiction of the courts of the State of Wisconsin and in particular, to the jurisdiction of the Circuit Court of Milwaukee. In the event of any conflict, this Agreement shall be modified to meet such requirements, and, as so modified, shall continue in full force and effect as to the parties. To the extent required by law this Agreement and the Motor Vehicle Lease Agreement(s) shall be read together and supplement each other. This Agreement shall not be effective until it is signed by all parties.

The date the parties have executed this Agreement is October 1, 2007.

  
Company Signature

By     **David M. Coyne**  
       Name

Title    **General Manager**

  
Contractor Signature

**Thomas Mervyn**  
Contractor Name

254-420-2927  
Contractor Cell Phone Number

Contractor's address for notices:  
134 River View Drive  
Waco TX 76712

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SCHEDULE A  
Equipment Schedule

Year	Make	Type	Serial Number	Unit No.
88	Peterbilt	362	1XP6D9X2J26-095	26294

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**Schedule B-1****Compensation Schedule for Transportation of House Hold Goods under Atlas Authority****A. Payments to Contractor**

(1) The following definitions and general rules are applicable to the determination of compensation:

(a) Linehaul and accessorials service charges shall be determined by applying the applicable effective or predetermined effective bottom line discount (determined under Atlas' rules) to the transportation and accessorials charges for each shipment.

(b) Linehaul and accessorials service charges for shipments transported under single factor ("SFR") pricing items or contracts shall be determined by applying the distribution percentage assigned to each specific SFR shipment as a discount to the tariff-based charges that would have applied to a non-SFR shipment.

(c) Linehaul and accessorials service charges will be increased to amounts equivalent to tariff charges discounted by no more than the Max Share protection level designated for each shipment whenever effective or predetermined effective bottom line discounts exceed the Max Share protection levels.

(d) A comprehensive summary of Atlas' distribution programs is found in the Atlas Financial and Accounting Information Manual as amended and/or supplemented from time to time by Atlas in its sole discretion, which shall constitute an appendix to this Agreement.

(e) Mileage, when applicable, shall be determined in accordance with the current Household Goods Carriers' Bureau Mileage Guide.

(f) The Contractor is responsible for loading and unloading. Compensation for these services is included in the linehaul payment.

(g) Empty miles will be the responsibility of the Contractor. No compensation is provided for empty miles.

(2) The following percentages will be paid out based on a Quality ranking (see below) with safety standards:

**Ace Fleet of Excellence**

A driver ranking of 4.75 with a 100% use Atlas Survey on Atlas Van Line Surveys

A driver ranking of 7.00 or 8.00 on all Cartus Surveys

A driver ranking of 5.00 on all Prudential Surveys

A driver ranking of 8.00 to 10.00 on all Kraft Surveys

A safety rating of 25 points or less from Atlas Van Lines Safety Department

A packing claim ratio of 2.5 or better

A hauling claim ratio of \$100 claims per \$10,000 hauling revenue

A minimum of \$100,000 Hauling Revenue from May 1<sup>st</sup> to Sept 30<sup>th</sup>

**National Fleet**

Linehaul	58%
Fuel Surcharge	100%
Insurance Surcharge	0%
Packing/Containers	90%
Accessorials	90%
Waiting Time	80%

**Regional Fleet**

Linehaul	55%
Fuel Surcharge	100%
Insurance Surcharge	0%
Packing/Containers	90%
Accessorials	90%
Waiting Time	80%

**Ace World Wide Fleet**

Not meeting the requirements above

**National Fleet**

Linehaul	55%
Fuel Surcharge	100%
Insurance Surcharge	0%
Packing/Containers	90%
Accessorials	80%
Waiting Time	80%

**Regional Fleet**

Linehaul	53%
Fuel Surcharge	100%
Insurance Surcharge	0%
Packing/Containers	80%
Accessorials	80%
Waiting Time	80%

Note: Straight Truck is at the discretion of the GM if any additional compensation is determined.



**Schedule B-2**

**Compensation Schedule for Transportation of Special Products/CTD under Atlas Authority**

**Mileage Compensation**

**Loaded Dispatched Miles** - \$1.00 per mile

**Empty Dispatched Miles** - \$0.90 per mile

**Handling Compensation**

**GE Medical shipments** - \$1.00 per cwt for loading and unloading at an Atlas agent facility (\$25 minimum load or unload pay)

- \$2.00 per cwt for loading and unloading at all other locations and direct to / from site (\$25 minimum load or unload pay)

**Shuttle Charges** - \$30.00 per hour authorized on Accessorial Services Report

**Uncrate and Debris Removal** - \$25.00 flat rate per crate or skid

**Extra Stops - (GE Med)** - 1<sup>st</sup> One Free and then \$50.00 each additional

**Fuel Surcharge** - 100% paid based on GEHC contract / schedule

**Truckload Shipments** - \$125.00 for loading and \$125.00 for unloading

(i.e.: store fixtures, trade shows, general commodities shipments)

**Extra Stops** - \$50.00

**Fuel Surcharge** - 100% paid based on respective customer contract / schedule

**LTL Shipments** - \$1.00 per cwt (\$25.00 minimum)

(special products type shipments)

**Drop, Hook, Load and Count Equipment when switching trailers**

- \$40.00 per occurrence

- \$60.00 chargeback for not completing and submitting upon Operation's request

- paid upon operation's receipt of completed trailer inventory form

**Percentage Program (If Applicable)**

- 56% of Linehaul

- 100% of Fuel Surcharge

- 0% of Insurance Surcharge

- 80% of any Accessorials

Contractor is responsible for all tolls and own cell phone.

Scale tickets are reimbursed when shipment requires with receipt.

Trailer washes reimbursed with management approval and submission of receipt.

\$0.01 per mile raise on 1 year and 2 year anniversary dates contracted with the Company.

Chargeback's from Atlas for lost or damaged equipment are 100% the responsibility of the Contractor.

**Schedule B-3**  
**Compensation Schedule for Transportation of Exhibit & Tradeshow Goods under Atlas Authority**

**A. Payments to Contractor.**

- (1) The following definitions and general rules are applicable to the determination of compensation.
- (a) Linehaul and accessorials service charges shall be determined by applying the applicable effective or predetermined effective bottom line discount (determined under Atlas' rules) to the transportation and accessorials charges for each shipment.
- (b) Linehaul and accessorials service charges will be increased to amounts equivalent to tariff charges discounted by no more than the Atlas Share protection level designated for each shipment whenever effective or predetermined effective bottom line discount exceeds the Atlas Share protection levels.
- (c) A comprehensive summary of Atlas' distribution programs is found in the Atlas Financial and Accounting Information Manual, as amended and/or supplemented from time to time by Atlas in its sole discretion, which shall constitute an appendix to this Agreement.
- (d) Mileage, when applicable, shall be determined in accordance with the current Household Goods Carriers' Bureau Mileage Guide.
- (e) The Contractor is responsible for loading and unloading. Compensation for these services is included in the linehaul charges.
- (f) Empty miles will be the responsibility of the Contractor. No compensation is provided for empty miles.

**Ace Fleet of Excellence**

- A 100% On Time Delivery Rating
- A safety rating of 25 points or less from Atlas Van Lines Safety Department
- A hauling claim ratio of \$100 claims per \$10,000 hauling revenue

**Exhibit & Tradeshow Compensation**

Linehaul	61.60%
Fuel Surcharge	100.00%
Insurance Surcharge	0.00%
Accessorials	90.00%
Demorage	80.00%

**SCHEDULE B-4**  
**Compensation Schedule for Transportation of Goods under Ace Authority**  
 (Express in percentages of applicable tariff charge)

**Note:** "Linehaul and Accessorial Services" charges referenced below shall be determined by applying the effective benchmark discount (the discount determined by comparing full tariff total charges to discounted charges) to the applicable transportation and accessorial charges for shipments to which differing linehaul and accessorial discounts apply.

Linehaul and accessorial charges for "single factor" (SFR) pricing items shall be determined by applying the distribution percentage assigned to each specific SFR shipment as a discount to the tariff-based charges which would have applied to a non-SFR shipment.

Linehaul and accessorial charges will be increased to amounts equivalent to tariff charges discounted by no more than the "My Share" protection level.

A comprehensive summary of the programs detailed above is found in the Atlas Financial and Accounting Information Manual.

<b>I. Packing and Additional Services by Contractor</b>	
Containers provided by Company	0% of revenue
Containers provided by Contractor	80% of revenue
Packing Labor (Military & Civilian)	65% of revenue
Unpacking Labor (Military & Civilian)	65% of revenue
Waiting Time	80% of revenue
All Other Accessorial Charges (When Earned)	80% of revenue
<b>II. Local Moving</b>	
Locals	60% of revenue
Office and Industrial	60% of revenue
APU Local Pick Up	80% of revenue
Packing (APU, Local, & Intrastate)	65% of revenue
Intrastate Linehaul	53% of revenue
International Moves	50% of revenue
Storage Delivery Out	50% of revenue
Storage Delivery Out (Over 75 Miles)	50% of revenue
Storage Pick Up	52% of revenue
Storage Pick Up (Over 75 Miles)	54% of revenue
Warehouse Handling (When Earned)	56% of revenue
	60% of revenue

**Lease Agreements:**

COMPANY WILL CHARGE CONTRACTOR 15% OF TOTAL REVENUE FOR USE OF ONE POWER UNIT FOR ANY JOB.

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**Schedule C**

**Insurance Schedule**

1. Company's Insurance Obligations. It shall be the Company's responsibility, pursuant to DOT regulations promulgated under 49 U.S.C. § 13906 and pursuant to applicable state laws, to provide public liability, property damage, and cargo liability insurance for the Motor Vehicle Equipment at all times while the Motor Vehicle Equipment is being operated on behalf of the Company. However, the Company's possession of such insurance shall in no way affect the Company's rights of indemnification against Contractor as provided for in this Agreement.

2. Contractor's Insurance Obligations. Contractor shall maintain, at its sole cost and expense, the following minimum insurance coverages during this Agreement:

(a) Workers' Compensation. Contractor shall provide workers' compensation insurance coverage for Contractor (if a natural person), all of its employees and agents, anyone driving the Motor Vehicle Equipment, and any other persons required to be covered under the worker's compensation law of any state that is reasonably likely to have jurisdiction over Contractor's business operations and in amounts not less than the statutory limits required by such applicable state law. The worker's compensation insurance policy shall contain a provision for principal coverage in all states. As evidence of such coverage, Contractor shall provide the Company with a copy of the insurance policy declarations page for the Company's verification before operating the Motor Vehicle Equipment under this Agreement. Such coverage shall be no less comprehensive than the coverage the Company will facilitate on Contractor's behalf if Contractor so chooses, as provided in Section 5 of this Schedule.

(b) Occupational Accident Insurance. If (a) Contractor is the sole owner and the sole and exclusive operator of the Motor Vehicle Equipment and (b) the state in which the work is principally localized is not Colorado, Nevada, New Jersey, New York, or North Carolina, then Contractor may, as an alternative to obtaining workers' compensation coverage, obtain occupational accident insurance policy that includes either an endorsement or a separate policy provision whereby the insurer provides workers' compensation coverage that becomes effective for a claim by Contractor or Contractor's helper's alleging employee status of the Company or Contractor. The Contractor must supply to the Company proof of such worker's compensation coverage indicating statutory limits of liability by providing a certificate of insurance evidencing such coverage in addition to the certificate of insurance evidencing the occupational accident coverage.

(c) Non-Trucking Liability. Contractor shall procure, carry, and maintain public liability and property damage insurance which shall provide coverage to Contractor whenever the Motor Vehicle Equipment is not being operated under Company dispatch in a combined single limit of not less than One Million Dollars (\$1,000,000) for injury or death to any person or for damages to property in any one occurrence. Such coverage shall be no less comprehensive than the coverage the Company will facilitate on Contractor's behalf if Contractor so chooses, as provided in Section 5 of this Schedule. In addition, such coverage shall be primary to any other insurance that

may be available from the Company. Contractor shall be responsible for all deductible amounts and for any loss or damage in excess of the policy limit.

(d) Auto Liability Insurance. Contractor shall procure, carry, and maintain auto liability insurance that shall provide coverage to Contractor whenever the Motor Vehicle Equipment is being operated (whether or not on behalf of the Company) in a combined single limit of not less than \$1 Million Dollars (\$1,000,000) and excess liability insurance in a combined single limit of not less than \$20 million dollars (\$20,000,000) for injury or death to any person or for damages to that person's property in any one occurrence. Such coverage shall be no less comprehensive than the coverage the Company will facilitate on Contractor's behalf if Contractor so chooses, as provided in Section 5 of this Schedule. In addition, such coverage shall be primary to any other insurance that may be available from the Company. Contractor shall be responsible for all deductible amounts and for any loss or damage in excess of the policy limit.

(e) Physical Damage and Other Insurance. In addition to the insurance coverages required under this Agreement, it is Contractor's responsibility to procure, carry and maintain any fire, theft, uninsured and/or underinsured motorist, and physical damage (collision), or other insurance coverage that Contractor may desire for the Motor Vehicle Equipment or for Contractor's health care or other needs. As provided in this Agreement Contractor holds the Company harmless with respect to loss of or damage to Contractor's motor Vehicle Equipment, trailer, or other property, and the Company has no responsibility to procure, carry, or maintain any insurance covering loss of or damage to Contractor's Motor Vehicle Equipment, trailer, or other property. Contractor acknowledges that the Company may, and Contractor hereby authorizes the Company to waive and reject no-fault, uninsured, and underinsured motorist coverage from the Company's insurance policies to the extent allowed under laws of all states (or such other state law where the Motor Vehicle Equipment is principally garaged), and Contractor shall cooperate in the completion of all necessary documentation for such waiver, election, or rejection.

3. Requirements Applicable To All Of Contractor's Insurance Coverages. Contractor shall procure insurance policies providing the above-described coverages solely from insurance carriers that are A.M. Best "A" rated, and Contractor shall not operate the Motor Vehicle Equipment under this Agreement unless and until the Company has determined that the policies are acceptable (the Company's approval shall not be unreasonably withheld). Contractor shall furnish to the Company written certificates obtained from Contractor's insurance carriers showing that all insurance coverages required above have been procured from A.M. Best "A" rated insurance carriers, that the coverages are being properly maintained, and that the premiums therefor are paid. Each insurance certificate shall specify the name of the insurance carrier, the policy number, and the expiration date; list the Company as an additional insured with primary coverage; and show that written notice of cancellation or modification of the policy shall be given to the Company at least thirty (30) days prior to such cancellation or modification.

4. Contractor's Liability If Required Coverages Are Not Maintained. In addition to Contractor's hold harmless/indemnity obligations to the Company under the Agreement, Contractor agrees to defend, indemnify and hold the Company harmless from any direct, indirect, or consequential loss, damage, fine, expense, including reasonable attorney fees, actions, claim for injury to persons, including death, and damage to property that the Company may incur arising out of or in connection with Contractor's failure to maintain the insurance coverages required by this Agreement. In addition, Contractor, on behalf of its insurer, expressly waives all subrogation rights against the Company, and, in the event of a subrogation action brought by Contractor's insurer, Contractor agrees to defend, indemnify, and hold the Company harmless from such claim.

5. Availability Of Insurance Facilitated By the Company. Contractor may, if it so chooses by initialing one or more boxes in the right-hand column of the attached "Contractor Authorization to Purchase Insurance," authorize the Company to facilitate, on Contractor's behalf, the insurance coverages required or made optional by this Agreement. In any such case, the Company shall deduct, from Contractor settlement compensation amounts reflecting all of Ace's expense and cost in obtaining and administering such coverage. In addition, if Contractor fails to provide proper evidence of the purchase or maintenance of the insurance required above, then the Company is authorized but not required to obtain such insurance at Contractor's expense and deduct, from Contractor's settlement compensation, amounts reflecting all of the Company's expense in obtaining and administering such coverage. Contractor recognizes that the Company is not in the business of selling insurance, and any insurance coverage requested by Contractor from the Company is subject to all of the terms, conditions, and exclusions of the actual policy issued by the insurance underwriter. The Company shall ensure that Contractor is provided with a certificate of insurance (as required by 49 C.F.R. § 376.12(j)(2)) for each insurance policy under which the Contractor has authorized the Company to facilitate insurance coverage from the insurance underwriter (each such certificate to include the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to Contractor for each type of coverage, and the deductible amount for each type of coverage for which Contractor may be liable), and the Company shall provide Contractor with a Summary Plan Document upon request.

6. Changes In Cost Or Other Details Of Coverages If the Company is facilitating any insurance coverages for Contractor pursuant to Section 5 of this Appendix and the cost to Contractor for, or other details of, a coverage changes from the information listed in the attached "CERTIFICATE OF INSURANCE", Contractor will be so notified by personal delivery, fax, or other written notice. In any event, Contractor shall not be subject to any such change until ten (10) calendar days after such notice or such later time as is set forth in the notice. Contractor's failure, by the end of ten (10) calendar days after such notice, to notify the Company of any objection to the change shall constitute Contractor's express consent and authorization to the Company to implement the change and modify accordingly the deductions from Contractor's settlement compensation, beginning immediately after the 10-day period. Such modified amounts shall replace and supersede those shown in the Certificate of Insurance and the Company shall not have an obligation to also provide a revised Certificate of Insurance. If Contractor fails to notify the Company of any objection within the 10-day period -- or if Contractor notifies the Company of its objection within the 10-day period and Contractor and the Company is then unable to resolve the

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matter to our mutual satisfaction -- Contractor and the Company shall each have the right to terminate this Agreement effective immediately upon the change becoming effective (although Contractor shall remain subject to the change until Contractor's termination's effective date and time).

## Schedule C-1

## Contractor Authorization to Purchase Insurance

Contractor hereby requests Company to facilitate on Contractor's behalf the insurance coverages selected by placing the Contractor's initials below:

Type of Coverage	Insurance purchased through Atlas (Atlas qualified drivers only)		Insurance purchased through Company	
	Contractor Initials	Cost to Contractor & Deductible	Contractor Initials	Cost to Contractor & Deductible
Workers Compensation	<u>TM</u>	\$300 per month per driver  \$330 per month per driver for local exposure under Company's Bill of Lading  Deductible: Not Applicable	N/A	Insurance not offered by company
Occupational Accident Insurance with Workers Compensation Rider	N/A	Insurance not offered by Atlas		\$300.00 per month
Non-trucking Liability (bobtail)	<u>TM</u>	\$250 per power unit flat charge per year.  Deductible: \$100 for real property damage \$500 for property damage or bodily injury		\$46.00 per month  Deductible: \$1,000.00
Auto Liability	N/A	Not offered by Atlas		4% of net distributable income  Deductible: \$1,000.00
Physical Damage	<u>TM</u>	Monthly charge. See separate tables. Equipment Model Year: <u>88</u>  Actual Cash Value of Equipment: <u>\$4000.00</u>  Deductible: \$0 for total vehicle theft & fire \$250 combined additional coverage \$500 Collision		4% of Actual Cash Value of Equipment  Actual Cash Value of Equipment: \$ <u>          </u>  Deductible: \$1,000.00

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## Schedule C-2

Atlas  
Physical Damage Insurance Premium - Monthly  
Tractors and Straight Trucks

Actual Cash Value	Current Model Year	Prior Model Year	Second Prior Model Year	Third Prior Model Year	Fourth Prior Model Year	Fifth Prior Model Year and Earlier
000-15,000	88.30	87.12	81.29	75.45	70.53	62.33
15,001-17,500	101.93	100.57	93.84	87.10	81.42	71.05
17,501-20,000	115.23	113.69	106.08	98.47	92.05	81.35
20,001-22,500	129.01	127.28	118.76	110.24	103.05	91.07
22,501-25,000	140.79	138.90	129.60	120.30	112.46	99.38
25,001-27,500	153.09	151.04	140.93	130.82	122.29	108.07
27,501-30,000	165.11	162.89	151.98	141.08	131.88	116.55
30,001-32,500	176.79	174.42	162.74	151.07	141.22	124.80
32,501-35,000	187.86	185.34	172.93	160.53	150.06	132.61
35,001-37,500	199.12	196.45	183.30	170.15	159.05	140.56
37,501-40,000	209.90	207.08	193.22	179.36	167.66	148.17
40,001-42,500	217.88	214.96	200.57	186.18	174.04	153.80
42,501-45,000	225.91	225.65	213.50	201.35	189.06	167.92
45,001-47,500	233.91	233.64	221.06	208.48	195.75	173.57
47,501-50,000	241.92	241.63	228.62	215.61	202.44	179.82
50,001-52,500	248.99	248.70	235.31	221.92	208.37	185.08
52,501-55,000	254.03	253.73	240.07	226.41	212.58	188.62
55,001-57,500	260.11	259.81	245.82	231.83	217.67	193.34
57,501-60,000	266.15	265.83	251.51	237.20	222.72	197.83
60,001-62,500	272.84	272.52	257.84	243.17	228.32	202.81
62,501-65,000	279.49	279.16	264.13	249.10	233.89	207.75
65,001-67,500	286.14	285.81	270.42	255.03	239.46	212.70
67,501-70,000	292.84	292.50	276.75	261.00	245.06	217.67
70,001-72,500	300.10	299.75	283.61	267.47	251.14	223.07
72,501-75,000	307.42	307.06	290.52	273.99	257.26	228.50
75,001-77,500	314.69	314.32	297.39	280.47	263.34	233.91
77,501-80,000	321.95	321.58	304.26	286.95	269.43	239.31
80,001-82,500	330.12	329.74	311.98	294.23	276.26	245.38
82,501-85,000	338.15	337.76	319.57	301.38	282.98	251.35
85,501-87,500	346.18	345.78	327.16	308.54	289.70	257.33
87,501-90,000	354.21	353.79	334.74	315.69	296.41	263.28
90,001-92,500	363.09	362.67	343.14	323.61	303.85	269.89
92,501-95,000	372.02	371.59	351.58	331.57	311.32	276.53
95,501-97,500	381.38	380.83	360.42	339.91	319.16	283.49
97,501-100,000	389.64	389.19	368.23	347.27	326.07	289.63
100,001 - 102,500	397.43	396.97	375.59	354.22	332.59	295.42
102,501 - 105,000	405.38	404.91	383.11	361.30	339.24	301.33
105,001 - 107,500	413.49	413.01	390.77	368.53	346.03	307.36
107,501 - 110,000	421.76	421.27	398.58	375.90	352.95	313.50
110,001 - 112,500	430.19	429.70	406.56	383.41	360.01	319.77
112,501 - 115,000	438.80	438.29	414.69	391.08	367.21	326.17
115,001 - 117,500	447.57	447.06	422.98	398.90	374.55	332.69
117,501 - 120,000	456.53	456.00	431.44	406.88	382.04	339.35
120,001 - 122,500	465.66	465.12	440.07	415.02	389.68	346.13
122,501 - 125,000	474.97	474.42	448.87	423.32	397.48	353.06
125,001 - 150,000	546.21	545.58	516.20	486.82	457.10	406.02
150,001 - 175,000	628.15	627.42	593.63	559.84	525.66	466.92
175,001 - 200,000	690.96	690.16	652.99	615.83	578.23	513.81
Example of years	2007/8	2006	2005	2004	2003	2002 & Earlier

9/28/07

## Schedule C-3

Atlas  
Physical Damage Insurance Premium - Monthly  
Trailers

<u>Actual Cash Value</u>	<u>Current Model Year</u>	<u>Prior Model Year</u>	<u>Second Prior Model Year</u>	<u>Third Prior Model Year</u>	<u>Fourth Prior Model Year</u>	<u>Fifth Prior Model Year and Earlier</u>
0,000-5,000	\$24.79	\$24.48	\$22.86	\$21.25	\$19.73	\$17.80
5,001-6,000	\$29.78	\$29.41	\$27.47	\$25.53	\$23.70	\$20.78
6,001-7,000	\$34.67	\$34.24	\$31.98	\$29.72	\$27.59	\$24.49
7,001-8,000	\$39.61	\$39.11	\$36.53	\$33.95	\$31.52	\$27.64
8,001-9,000	\$44.55	\$43.99	\$41.09	\$38.19	\$35.45	\$31.08
9,001-10,000	\$49.49	\$48.87	\$45.64	\$42.42	\$39.38	\$34.53
10,001-11,000	\$54.43	\$53.75	\$50.20	\$46.66	\$43.32	\$37.93
11,001-12,000	\$59.47	\$59.24	\$55.88	\$52.53	\$49.03	\$43.23
12,001-13,000	\$64.41	\$64.16	\$60.53	\$56.90	\$53.10	\$46.84
13,001-14,000	\$69.30	\$69.04	\$65.13	\$61.22	\$54.14	\$50.41
14,001-15,000	\$74.19	\$73.91	\$69.72	\$65.54	\$61.17	\$53.93
15,001-16,000	\$79.23	\$78.93	\$74.46	\$69.99	\$65.32	\$57.53
16,001-17,000	\$84.17	\$83.85	\$79.10	\$74.35	\$69.39	\$61.22
17,001-18,000	\$89.11	\$88.77	\$83.74	\$78.71	\$73.46	\$64.81
18,001-19,000	\$94.05	\$93.69	\$88.38	\$83.08	\$77.54	\$68.43
19,001-20,000	\$99.08	\$98.70	\$93.11	\$87.52	\$81.68	\$72.03
20,001-21,000	\$103.93	\$103.53	\$97.66	\$91.80	\$85.68	\$75.53
21,001-22,000	\$109.01	\$108.59	\$102.44	\$96.29	\$89.87	\$79.23
22,001-23,000	\$113.86	\$113.42	\$106.99	\$100.57	\$93.86	\$82.80
23,001-24,000	\$118.84	\$118.39	\$111.68	\$104.98	\$97.98	\$86.43
24,001-25,000	\$123.83	\$123.36	\$116.37	\$109.38	\$102.09	\$90.01
25,001-30,000	\$128.72	\$128.23	\$120.97	\$113.71	\$106.13	\$93.62
30,001-35,000	\$143.50	\$142.95	\$134.85	\$126.76	\$118.31	\$104.37
35,001-40,000	\$158.27	\$157.66	\$148.73	\$139.80	\$130.48	\$115.10
40,001-45,000	\$172.95	\$172.29	\$162.53	\$152.77	\$142.58	\$125.78
45,001-50,000	\$187.72	\$187.00	\$176.41	\$165.82	\$154.76	\$133.52
50,001-55,000	\$202.44	\$201.67	\$190.25	\$178.83	\$166.91	\$147.24
55,001-60,000	\$217.17	\$216.34	\$204.08	\$191.83	\$179.04	\$157.94
60,001-65,000	\$231.89	\$231.01	\$217.92	\$204.84	\$191.18	\$163.62
65,001-70,000	\$246.71	\$245.77	\$231.85	\$217.93	\$203.40	\$179.42
70,001-75,000	\$261.39	\$260.40	\$245.65	\$230.90	\$215.50	\$199.11
75,001 & UP	\$276.12	\$275.06	\$259.48	\$243.90	\$227.64	\$200.81
Example of years	2007/8	2006	2005	2004	2003	2002 & Earlier

9/28/07

**SCHEDULE D**

**Cash Reserve Account Schedule**

Cash Reserve Account. Under Sections 10(a) and 10(b), the initial amount of and the amount at which the Cash Reserve Account must be maintained is \$0. The Company will deduct 5% of the net bi-weekly payment to the Contractor and credit the amount to the Cash Reserve Account until the Cash Reserve Account has accumulated a \$3,000 balance. At the written request by the Contractor, the Company will continue to deduct 5% of the bi-weekly payment to the Contractor and credit the amount to the Cash Reserve Account until the Cash Reserve Account has accumulated a \$6,000 balance. Cash Reserve Account balances over \$3,000 will be paid to the Contractor upon Contractor's submission to Company of documentation substantiating repairs to the Contractor's Equipment or Trailer. All disbursements over \$3,000 to the Contractor will be replenished as described above.

Negative Balances. Under Section 11(g), the charge for settlement shortages shall be calculated on a bi-weekly basis and is \$5 for each \$1,000 of a driver's deficit balance.

# **EXHIBIT B**

## NELSON WESTERBERG CONTRACTOR AGREEMENT AND LEASE

THIS AGREEMENT is between Nelson Westerberg of Texas ("Agent"), at 3214 Commander Dr. Carrollton, TX 75006 (Agent address) and the undersigned ("CONTRACTOR").

RECITALS: Agent serves as an agent for Atlas Van Lines, Inc. ("Carrier"), a carrier engaged in the business of interstate transportation of goods by motor vehicle under a registration with the U.S. Department of Transportation ("DOT"). Contractor is the owner of the motor vehicles (the "Equipment") described in Schedule A to this Agreement, and desires to operate the Equipment and perform transportation services as an independent contractor on behalf of Agent.

In consideration of their mutual covenants and conditions, Contractor and Agent agree that Contractor will operate the Equipment as Agent may require in connection with Agent's operations solely as an agent for Carrier and not on its own in any separate local or intrastate business and perform the other services stated for and on behalf of Agent, acting in such capacity, subject to the following terms and conditions:

### 1. RELATIONSHIP.

(a) Contractor is an independent contractor only and is not the employee of Agent or Carrier for any purpose whatsoever. Nothing in this Agreement shall be deemed to create an agency, subagency, joint venture, partnership or any other legal relationship between Agent and Contractor except that of principal and independent contractor. No legal relationship between Contractor and Carrier shall be established by this Agreement nor shall this Agreement be the basis of any liability of Carrier to Contractor, it being the intent of the parties that the relationship of Contractor shall at all times be with Agent and not with Carrier, provided that (1) this Agreement shall constitute the lease and receipt for the Equipment required by the DOT regulations; and (2) Contractor authorizes Agent to lease the Equipment to Carrier under a separate Motor Vehicle Lease Agreement. In addition, the fact that Agent is required to comply with various rules, regulations and requirements of Carrier and applicable law in conducting its business on behalf of Carrier under its agreements with Carrier and, in turn, to require compliance with such rules, regulations and requirements by Contractor, some of which are reflected in this Agreement, shall not establish any legal obligation of Carrier to or for Contractor.

(b) Neither party shall, without the written consent of the other, pledge the name or credit of the other or incur debts, obligations, or liabilities for which the other will be charged. Contractor is not required to purchase or rent any products, equipment, or services from Agent as a condition of entering into this Agreement.

(c) Contractor will operate as an independent business offering use of Contractor's services to Agent for the term of this Agreement and will assume full responsibility for the management of Contractor's business and finances, including but not limited to payment of wages, social security, and all applicable Federal, state and other taxes and assessments, as legally required, for Contractor and any and all persons employed or used by Contractor in any capacity, and maintaining any records Contractor chooses, in addition to those required by applicable laws, rules and regulations.

(d) Contractor reserves the right and obligation to:

(1) employ any qualified persons to operate the Equipment and any other persons and to manage and direct all aspects of such employment, including setting rates of pay and determining the number of hours to be worked by and holidays and vacation periods for Contractor and Contractor's employees.

(2) operate over any route or combination of routes that Contractor selects under such time schedules as Contractor selects, subject to compliance with applicable laws, rules, regulations and requirements.

(3) accept or reject any assignments tendered to Contractor by Agent; provided that Contractor will not refuse any load after having accepted a dispatch except for good cause beyond Contractor's reasonable control, such as mechanical breakdown, driver illness, or delays in the delivery of a preceding load or loads; provided that Agent's obligation to offer assignments to Contractor will be diminished or extinguished by

Contractor's refusal of loads offered, particularly if such refusals are relatively frequent and without good cause.

(4) In all ways operate the Equipment as an independent contractor, subject to such provisions of the ICC Termination Act of 1995 that require control with respect to service, territory to be served, rates to be assessed and documents to be executed and delivered be vested in the Carrier.

## **2. QUALIFICATION; INSPECTION; PAINTING; SUBSTITUTION OF THE EQUIPMENT.**

(a) This Agreement constitutes the lease agreement and receipt for the Equipment required by the DOT regulations, with Agent acting as Agent for Carrier provided that Agent may enter into a separate Motor Vehicle Lease Agreement with Carrier covering the Equipment.

(b) Contractor represents and warrants that the Equipment is now in good mechanical condition and repair and meets the DOT rules and regulations. Contractor will at all times and at Contractor's own cost and expense maintain the Equipment in good operating condition and in compliance with such rules and regulations and the rules and regulations of Agent and Carrier. Before commencing operation of the Equipment, and at any time, Agent or Carrier may inspect or require the inspection of the Equipment. If the Equipment does not comply with the rules and regulations of Agent or Carrier and the rules and regulations of the DOT, it shall not be operated under this Agreement. In such event, Contractor will repair and remedy the defects in order that the Equipment complies with all such rules and regulations.

(c) Upon execution of this Agreement, Agent may extend and Contractor may accept a credit in an amount specified by Agent to paint the Contractor's tractor in accordance with the Carrier's standard specifications, including paint type. This painting shall be accomplished at an establishment of the Agent's choosing. If this Agreement remains in full effect for six months from the date of execution, the amount of credit extended for this purpose shall be forgiven. If this Agreement is terminated for any reason prior to the expiration of six months, the full amount of the credit extended will be immediately due and payable to Agent by the Contractor.

(d) Contractor will not substitute for the Equipment without the prior written consent of Agent. If another piece of equipment is substituted for that provided under this Agreement, all the terms and conditions of this Agreement shall apply to such substituted equipment. When Equipment is withdrawn from the service of the Agent and/or Carrier, the Contractor shall immediately, at Contractor's own expense, remove all Agent's and Carrier's colors, insignia, and advertising therefrom, and eliminate all permit and certificate numbers that may designate such vehicle as operating in the service of Agent or the Carrier.

(e) Contractor shall furnish Agent not less than three weeks notice of Contractor's intention to replace the Equipment so that necessary applications and proper registration can be made to properly qualify it in Carrier's service. Contractor shall pay any additional fees or costs incurred in the process of qualifying the replacement equipment.

## **3. OPERATION OF THE EQUIPMENT AND ADDITIONAL OBLIGATIONS OF CONTRACTOR.**

Subject to the provisions of Section

(a) All operations while the Equipment is being operated for Carrier are and shall be subject to the exclusive control and direction of the Carrier to the extent required by the ICC Termination Act of 1995.

(b) Contractor shall load, pick up, transport, unload and deliver all shipments accepted by Contractor as instructed by Agent. Under Carrier's rules, shipment assignments may come directly from Carrier.

(c) Transportation shall be conducted under Carrier's waybills, bills of lading, freight bills, manifests, and other shipping documents as required by Federal and state regulations and Carrier's requirements.

(d) The Equipment shall be operated in full compliance with all Federal, state and local laws, statutes, ordinances, rules and regulations relating to the operation of motor vehicles including, but not limited to, contracting or licensing, speed, safety devices and equipment, weight, tonnage, width, height and length restrictions.

(e) The Equipment shall be operated only by individuals who are qualified as drivers in accordance with DOT and Carrier requirements and Contractor shall reimburse Agent for any costs incurred by Agent for investigation or qualification services, including physical examinations and drug screens, performed on Contractor and co-drivers or helpers associated with the Contractor, and all costs incurred in maintaining the qualification of any driver.

(f) Contractor shall pay all operating expenses of the Equipment during the time it is operated on behalf of Agent, including, but not limited to, fuel, fuel taxes, inspection reports, highway and bridge tolls, ferry charges, scale tickets and charges of any kind arising in connection with the procurement and servicing of the Equipment and its operation. Fuel taxes assessed will be calculated on total fuel purchased and taxes paid on the basis of five miles per gallon times the applicable state fuel tax rate.

(g) Contractor shall be liable for all fines, penalties and administrative charges assessed against Contractor and any of Contractor's personnel and/or the Equipment by any Federal, state or local government or by Carrier against Agent with respect to Contractor, any of Contractor's personnel and/or the Equipment, except that Carrier shall be liable for fines for overweight and oversize trailers if the trailers are pre-loaded and sealed, or the load is containerized, or when the trailer or loading is otherwise outside of Contractor's control, and for improperly permitted overdimension or overweight loads and Agent shall reimburse the Contractor any such fines paid by Contractor in these instances. Carrier will not be responsible for overlength fines unless the trailer provided by Carrier exceeds the legal size. If Agent is required by Carrier to pay any fine or penalty for which Contractor is responsible, Contractor shall reimburse Agent any amount paid and shall pay Agent an administrative charge for each instance that Agent is required to make such a payment. Carrier has reserved the right to change its penalties and administrative charges at any time upon notice to Agent.

(h) Contractor shall prepare, maintain, and file with Carrier all logs, records, reports and other documents required by Federal and state laws and deliver them to the place and within the time specified by rules governing such operations. If Contractor fails to comply with this provision, Contractor shall be liable to Agent for the additional expense and handling charges incurred by Carrier and charged to Agent by reason of the lateness or non-delivery of such logs, records, and other documents.

(i) At any time upon demand of Agent, Contractor shall return and deliver to Agent or its designee any and all shipments being carried by Contractor under this Agreement; any and all documents relating to such shipments; and any and all property of the Agent or Carrier in Contractor's possession or under Contractor's control, in that Agent and, in turn, Carrier shall have the right to immediate possession of such shipments, documents, and property under any and all circumstances. Under no circumstances does Contractor acquire any right or interest in such shipments, documents or property. Contractor shall pay any costs incurred by Agent, including costs assessed by Carrier, in obtaining any shipment, property or document under this Section.

(j) Contractor shall report to Agent or, as applicable, Carrier, in the manner and as requested by Agent or Carrier, all data in connection with the Contractor's performance under this Agreement in sufficient form and detail to enable Carrier to make all reports required by law and will keep Agent informed on a daily basis as to Contractor's whereabouts and of the contents of Contractor's unit.

(k) Contractor shall notify the Carrier's Safety Department of any accident involving the Equipment while being operated under this Agreement by 5:00 p.m., Central Time, on the next business day. Contractor shall notify Carrier as soon as is practical of any situation or occurrence within Contractor's knowledge which affects, or is likely to affect, the interests of Carrier, including any damage to, loss of, or delay in, delivery of cargo in the custody or possession of Contractor. Contractor shall pay Agent a minimum charge of \$50.00, regardless of actual incurred expense, and Carrier's actual incurred expenses up to a maximum of \$500.00 for each chargeable vehicular accident while operating for Carrier as charged to Agent by Carrier.

(l) Contractor is responsible to Agent for delay claims occasioned by departure from the transit or delivery schedule previously agreed upon between Contractor or a driver for Contractor and Agent or Carrier's Central Dispatch, unless the delay is communicated to Agent or Carrier's Central Dispatch prior to the end of the next working day following the departure from schedule and a new agreement is reached.

(m) Contractor shall provide a sufficient quantity of uniforms meeting Carrier's then current uniform specifications to enable all drivers to be in uniform on a daily basis and shall require the use of such uniforms by all drivers of the Equipment.



(n) Contractor shall provide ongoing telephone or electronic communication of loading, delivery, and transit schedules to Carrier's customers, Agent, and, as required, Carrier's Operations Department and shall pay the costs of such communication.

(o) At the request of Agent, the Contractor will furnish true copies of all tax returns and returns required under the laws of the Federal, state and local governments.

#### **4. LICENSE FEES.**

(a) The Contractor shall furnish a base state license on the Equipment. All property tax, Federal Highway Use Tax, or other assessments arising out of ownership of the Equipment will be the responsibility of and shall be paid by the Contractor. Any refund or credit Agent may receive for base plates purchased by the Contractor will be refunded to Contractor.

(b) If this Agreement is terminated prior to the expiration of any license, registration plate, other identification insignia, cards, papers, registration fees or taxes that the Agent has either paid for, credited the Contractor's account or otherwise furnished, the Contractor will deliver to the Agent such license, registration plate, other identifying insignia, cards, or papers with any signatures that may be required to effect a transfer or secure a refund from the governmental agencies involved. If Contractor fails to cooperate with Agent to effect such transfer to secure such refund the Contractor shall be liable to Agent for the amount of any refund the Agent might otherwise enjoy or the cost of replacing or again paying for such license, registration fees, or taxes for the unexpired terms.

(c) Contractor shall pay for any and all expenses accrued for duplication of lost, misplaced, or stolen permits or plates and, in addition, all expenses of authorities needed until duplicate plates and permits can be secured.

#### **5. AGENT-OWNED EQUIPMENT; OMNITRACS**

(a) If Agent furnishes Contractor a semi-trailer, owned by Agent or another party, including Carrier (a "Trailer"), Contractor will use the Trailer in the performance of Contractor's obligations under this Agreement. Contractor will keep and maintain the Trailer in the same good repair and condition as when delivered to Contractor, normal wear and tear excepted, and keep it washed, greased, and cleaned as needed. Contractor will comply with the rules and regulations of Agent in respect to the maintenance and care of any Trailer. Agent will reimburse Contractor for any and all expenses incurred on a Trailer except expenses resulting from the negligence of Contractor. Agent will provide Contractor with dollies, pads, and other such equipment Agent deems necessary in connection with the operation of any Trailer. Contractor shall be responsible for all such equipment and will maintain it in good condition and repair. Upon the return of such equipment to Agent, Contractor will pay for any loss, shortage, or damage to same, normal wear and tear excepted. Contractor will pay Agent the full cost to repair the Trailer or equipment required as a result of Contractor's negligent or intentional acts.

(b) To assist Carrier in servicing its customers and for the convenience of Carrier, Agent and Contractor, Agent has previously or, at its sole option, may arrange for the installation of an OmniTRACS System (the "System") in Contractor's tractor unit for Contractor's use during the term of this Agreement and Contractor will assist in arranging for such installation if Agent so requests. If installed, all of the following provisions will apply: Agent will maintain the System, except that Contractor will be responsible for any repairs required as a result of Contractor's negligent or intentional acts. Contractor will notify Agent immediately of any malfunction or defect in the System and shall follow Agent's instructions with respect to repairs. Contractor is not authorized to attempt to perform repairs or alter the System in any way. Contractor acknowledges that Contractor does not have and will not acquire any ownership interest or other right or title in either the System hardware, which is vested in Carrier or Agent, or the System software, which is vested in QUALCOMM, Inc. Contractor acknowledges that use of the System while the vehicle is in motion is dangerous. Contractor will not use the System when the vehicle is in motion or for any purpose or in any manner that, directly or indirectly, violates the law or aids any unlawful act or undertaking or which is not within the parameters for use of the System established by Carrier. Carrier may, at any time, determine to discontinue the use of the System. In this event, or if this Agreement is terminated for any reason, Contractor shall follow Agent's instructions for removal of the System, including taking the vehicle on which the System is installed to the location designated by Agent for removal. If Contractor fails to follow Agent's instructions and the System is not removed within 15 days from the



date Contractor is advised that the System is to be removed, Contractor shall be liable to Agent for an amount equal to the current replacement cost of the System. Contractor shall pay Agent the amount set forth in Schedule B toward the monthly operating costs of the System.

(c) Contractor shall pay the cost of recovery, transportation and repair of equipment assigned to Contractor by Agent, including a Trailer or System, if applicable, that Contractor abandons or causes to be abandoned.

#### **6. LOSS AND DAMAGE.**

(a) As required by 49 U.S.C. §13906, Carrier maintains insurance coverage for the protection of the public. Under the agreement between Agent and Carrier, Carrier has full authority to take any action it determines with respect to all claims made by any party arising on shipments transported under this Agreement, which authority may be delegated to Agent, and Contractor authorizes Carrier, who may act through Agent, to act in Contractor's name and behalf with respect to such claims. Carrier and/or Agent shall determine, from existing documents and/or investigation by a claims representative, the extent to which Contractor is responsible to Carrier or Agent for any claim, such determination to be final. Regardless of when a cargo claim is filed, whether during or after termination of this Agreement, Contractor shall be liable to Agent and, in turn, Carrier for loss or damage to cargo on shipments hauled by Contractor under this Agreement in the following amounts:

(1) The basic chargeback amount (the "Basic Chargeback") for damaged or destroyed articles is the cost to Carrier to repair or replace any article. Unless otherwise set forth, the Basic Chargeback shall be a maximum of \$250 per shipment.

(2) Carrier shall establish a claims liability ratio for Contractor (the "Claims Ratio") when Contractor has hauled at least 100,000 pounds of shipments moving on Carrier's bills of lading during a calendar year, whether under this Agreement or under a prior agreement with Agent, Carrier or any other agent of Carrier. The Claims Ratio shall be the entire cost of the damage or destruction Claims that Carrier has determined Contractor is responsible for during the calendar year for which it is determined, divided by the total pounds hauled. The Claims Ratio shall be recalculated annually and, when calculated or recalculated, shall be applicable from August 1 of the year after that for which it was calculated, through July 31 of the next year. If a Contractor has an applicable Claims Ratio, the maximum Basic Chargeback shall be the amount set forth opposite the Contractor's applicable Claims Ratio:

Claims Ratio per 10,000 lbs.	Basic Chargeback
.01 - 5.00	\$ 50.00
5.01 - 10.00	100.00
10.01 - 25.00	150.00
25.01 - 50.00	200.00
50.01 - 75.00	225.00
75.01 - 100.00	250.00
100.01 - 150.00	300.00
150.01 - 200.00	350.00
200.01 - 250.00	450.00
250.01 & Over	500.00

(3) If there is damage to any automobile included in a shipment, the actual cost to repair the automobile, up to a maximum of \$500 per shipment, shall apply in addition to the Basic Chargeback for any other damaged or destroyed articles.

(4) If Contractor is responsible for damage or destruction in an amount in excess of \$1,000 on a shipment, excluding catastrophic losses, an amount equal to 25% of the excess over \$1,000 up to twice the Basic Chargeback, shall be added to the Basic Chargeback.

(5) If the shipment was transported under Carrier tariffs 500 or 2000-B, or any substitution or reissue of such tariffs, the maximum Basic Chargeback shall be \$500 per shipment in lieu of that under either (1) or (2).

(6) The chargeback amount for articles lost or missing from a shipment (the "Loss Chargeback") is the full amount of Carrier's cost to replace the article, subject to a maximum of \$350 per article and \$700 per shipment, provided that the maximums shall be \$500 per article and \$1,000 per shipment on any claims made for additional lost or missing articles within six months of a prior Loss Chargeback. A Loss Chargeback and a Basic Chargeback may apply on the same shipment.

(7) If Contractor fails to use generally accepted or prescribed procedures for the handling of Carrier's shipments, the Basic Chargeback and/or Loss Chargeback may be 100% of Carrier's costs, plus any claim settlement costs. For example, this would include, but not be limited to, recurring damage or loss involving the same or similar items; water damage resulting from failure to repair a known leaky trailer; damage to automobiles or boats due to using improper support decking; repeated damage to the legs of tables and chairs; and damages from the use of unauthorized or unqualified drivers.

(b) When the Contractor or Contractor's employees damage either the interior or exterior of any customer's premises, or a customer's driveways, curbs, lawns, shrubbery or any other real property, the Contractor shall be responsible for the cost of all repair, such cost not to exceed the maximums set forth in Schedule B, if any.

(c) Agent shall provide Contractor a written explanation and itemization of any deductions for cargo or property damage made from any compensation earned by Contractor.

#### **7. INSURANCE AND BONDS.**

(a) Contractor will cooperate fully with Agent in furnishing any and all information necessary for the bonding of Contractor or any of Contractor's employees. Contractor will pay Agent the current cost for each bond secured by Carrier covering either Contractor or Contractor's employees.

(b) Agent may carry any and all insurance that it shall deem necessary to protect itself, including insurance on any of its equipment. Agent does not assume any liability of any nature to the Contractor for any loss or damage that the Contractor may sustain in the operation of the Equipment, whether such loss or damage may result from fire, theft, collision, or other casualty.

(c) The Contractor shall maintain and keep in force public liability and property damage insurance covering both the bobtail operations of the Equipment and operations when in the control and direction of Agent and/or Carrier.

(d) The Contractor shall maintain and keep in force policies of worker's compensation insurance covering Contractor and all persons employed or engaged by Contractor.

(e) Whenever the Contractor is required under the terms of this Agreement, or by a written request made by the Agent during the term of this Agreement, to obtain and maintain insurance, Contractor will obtain such policies only from companies that meet Agent's and Carrier's then current requirements and will furnish copies of the insurance policy or a certificate of insurance to Agent and Carrier. All such insurance shall name the Agent and Carrier as an additional insured and shall contain a provision to the effect that the coverage may not be modified, canceled, revoked, amended or in any other manner altered except upon 30 days advance written notice to Agent and Carrier.

(f) Contractor may purchase the insurance required in Sections 7(c) and (d) through the Carrier's insurance program, at the rates published in Schedule B, and, at Contractor's option, may purchase coverage for loss or damage to the Equipment through the Carrier at the rates as that are then in effect for these coverages. Any premiums for insurance coverages obtained from Carrier shall be deducted from all amounts due Contractor from Agent. Carrier shall provide to Contractor a Certificate of Insurance for each insurance policy that shall include name of insurer, policy number, effective date, amounts and types of coverage and any deductible amount for which Contractor is liable. In any instance in which the Contractor is required to obtain insurance but fails to do so, Agent may obtain the insurance and charge the cost to the Contractor. If Agent obtains an individual insurance policy for Contractor, Agent shall provide a copy of such policy to Contractor on request.

#### **8. INDEMNIFICATION.**

Subject to any specific limitations contained elsewhere in this Agreement, Contractor will indemnify, save and hold Agent and Carrier free and harmless from and against any and all claims, demands, liabilities, damages, losses, judgments, awards and causes of action at law or in equity, including but not limited to those involving injury to, or death of, Contractor's employees and/or third parties, damages to property, including but not limited to, cargo, attorney's fees and all costs of litigation and from and against any obligation arising out of or attributable to any action or neglect of Contractor or of any of the personnel employed by Contractor in connection with the operation or maintenance of the Equipment, and in connection with Contractor's performance of transportation and other services under this Agreement.

**9. COLLECTIONS AND REMITTANCES.**

(a) Contractor, as a trustee, will collect and account for, in cash or by certified check payable to Carrier, or by such other means as Carrier shall from time to time allow, all monies due Carrier or Agent for the transportation of any shipment, together with any and all charges arising out of or in connection with such transportation, in accordance with the bill of lading, shipping contract, or other written instructions covering each shipment transported. Contractor will promptly remit all collected monies, together with weight tickets and properly signed bills of lading and inventories, to the offices of Agent or Carrier. Contractor is not authorized to extend credit or make any adjustments in any of the items of collections except under prior written authorization from Agent or Carrier. Contractor will not deliver any shipment until all COD charges have been collected in cash, certified check or other method authorized by Agent or Carrier, unless otherwise instructed by the Agent or Carrier. Any losses resulting from thefts, defalcation, or failure by drivers or other employees of Contractor relative to the return and transmittal of monies collected shall be borne solely by Contractor.

(b) All such monies are the exclusive property of Carrier, regardless of the status of the account between Agent and Contractor, and may not be used as an offset against claims of the Contractor. The retention or use by Contractor of any part of such monies for any purpose, other than to pay it over to Carrier as provided or as otherwise authorized in writing by Carrier, is a misappropriation of Carrier's property, whether done by Contractor directly or by any of Contractor's agents, servants or employees.

**10. CASH RESERVE ACCOUNT.**

(a) Contractor will deposit or accumulate and maintain with Agent a cash reserve in the amount set forth in Schedule B. The Cash Reserve Account shall be deposited with Agent before any Equipment furnished by Contractor shall be operated in the business of Agent under this Agreement, or, in the alternative, Agent may permit such Cash Reserve Account to be accumulated by deduction by Agent from the amount specified in Schedule B as available for this purpose to be credited to Contractor's Cash Reserve Account, such deductions to continue until the accumulation of the required Cash Reserve Account. Agent will pay Contractor interest on the Cash Reserve Account quarterly. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon yield on 91-day, 13-week Treasury bills as established in weekly auctions at the Department of Treasury. Agent may apply the Cash Reserve Account to those items specified in Section 13.

(b) Upon termination of this Agreement or at any time that the Cash Reserve Account, once fully funded, falls below the amount set forth in Schedule B, Agent may deduct from any other amounts due Contractor and place in the Cash Reserve Account such sum as is needed to bring the amount in the Cash Reserve Account to the sum set forth in Schedule B.

(c) Agent shall provide an accounting to Contractor of any transactions involving the Cash Reserve Account by clearly indicating either on individual settlement sheets or in a separate document the amount and description of any deduction or addition made to the Cash Reserve Account. Contractor may demand to have an accounting for transactions involving the Cash Reserve Account at any time, provided that Agent shall satisfy this obligation by furnishing Contractor with either copies of the documents maintained as its accounting of the transactions in the Cash Reserve Account or computer generated summaries of the same information contained on such documents.

(d) The Contractor must fulfill the obligations specified in Section 14(c) in order for the Cash Reserve Account to be returned. The Cash Reserve Account, including interest, less any amounts then remaining due Agent from Contractor, shall be refunded to Contractor no later than 45 days from the effective date of termination of this Agreement, which shall be the date that Contractor fulfills the obligations in Section 14(c). The return of the

Cash Reserve Account shall not terminate any liability that Contractor may have to Agent under any other provision of this Agreement.

**11. PAYMENTS TO CONTRACTOR.**

(a) Contractor shall earn compensation as provided in the schedule of compensation included in Schedule B attached to and made a part of this Agreement on each individual shipment assigned to Contractor for transportation services proportionally as Contractor performs the required and assigned services on such shipments. In making settlement between the Agent and the Contractor for services performed and compensation earned under this Agreement, each shipment assigned shall be considered separately, and shall be fully earned only on the completion of all transportation services by the Contractor and the delivery to the Agent or Carrier by Contractor of all necessary transportation documents, fully executed, as may be needed to properly substantiate Carrier's services, to secure payment from the shipper.

(b) The necessary transportation documents and other documents that are required to be delivered to the Agent or Carrier as a condition precedent to payment of earned compensation are as follows:

(1) On all shipments:

(A) The standard household goods bill of lading and freight bill, special products bill of lading and freight bill, uniform straight bill of lading or straight bill of lading, short form, or other Carrier-form bill of lading, issued for the shipment, signed at delivery by the shipper, consignee or warehouseman.

(B) Certified scale ticket(s), unless the driver is notified prior to shipment that these will not be required due to the terms under which the shipment is transported.

(2) On household goods shipments:

(A) Household goods descriptive inventory.

(B) Motor vehicle descriptive inventory, if items covered by that inventory are transported.

(C) Inventory of items of high value if high value items are transported.

(D) Packing Service Report, if packing is performed.

(E) Customer Check Off Sheet or "Bingo Sheet".

(F) Customer Verification Sheet.

(G) Additional Services Performed and Origin/Destination Service and Delivery Report, if any services covered by this form are provided.

(H) Any form required by government regulations on military shipments, including Military form(s) DD619; DD619-1 and/or DD1840.

(3) On other household goods shipments:

(A) Descriptive Inventory, if the inventory is not on the bill of lading.

(B) Additional Services Performed and Origin/Destination Service and Delivery Report, if any services covered by this form are provided.

(c) Agent may, in its sole discretion, establish exceptions to the required delivery of the designated documents when, due to the type of shipment involved, the documents are unnecessary or Carrier requirements are changed. Such exceptions shall be effective on notice to the Contractor.

(d) Within 3 days of receipt of all required documents from the Contractor, Agent shall make full payment to Contractor of all compensation earned for services performed on the shipments on which complete documentation has been provided, less any and all amounts for items specified in Section 13 then due and owing.

(e) At the time of each payment to Contractor, Agent shall provide a copy of a document in the form and using the designation established by Agent, representing an accounting of the financial accounts and transactions between Agent and Contractor.

(f) Financial entries made by Agent on payment documents shall be conclusively presumed correct and final if not disputed by Contractor within 180 days after distribution. On the date 180 days after distribution, such documents shall constitute the primary business record between Agent and the Contractor with respect to financial transactions existing between the parties as reflected on the statements, and additional underlying documentation, in support of the documents, shall not be required as a matter of proof before any administrative or judicial tribunal.

(g) Should any payment document issued to Contractor show a negative balance due to insufficient compensation earned to cover expenses incurred, an additional charge in the amount or percentage set forth in Schedule B will be assessed to the Contractor to reimburse Agent for the interest expenses on the settlement shortage.

## **12. RIGHT OF INSPECTION OF DOCUMENTS.**

If Contractor's revenue is based on a percentage of the gross revenue for a shipment, Agent will give Contractor, at the time of settlement, a computer-generated Carrier document containing the same information that would be contained in a rated freight bill and will allow Contractor to view, during Agent's normal business hours, a copy of any actual document underlying the computer-generated document. On request, during regular business hours or arrangement by Agent, Contractor may examine copies of Carrier's existing tariffs or, in the case of shipments moved under contract, those portions of the documents from which rates and charges are computed containing the information that would appear on a rated freight bill.

## **13. DEDUCTIONS AND CHARGEBACKS.**

(a) Any specified item that Contractor is required to pay under any provision of this Agreement may be deducted from or charged back to the Contractor's compensation at the time of any payment or from the Cash Reserve Account. All chargebacks or deductions shall be shown on a payment document issued by Agent with information including the amount and description of any chargeback or deduction. The amount charged back or deducted for any item will be the actual, documented cost to Agent, without mark up, except where Contractor liability is limited to less than actual Agent cost by certain provisions of this Agreement or is otherwise specified. Included in the specific items that may be deducted or charged back, but not limited to them, are the items noted in the following Sections:

(1) Section 2 - (c) Paint and labor; (e) Additional fees or costs to qualify replacement equipment.

(2) Section 3 - (e) Driver qualification and qualification maintenance costs; (f) All Equipment operating expenses, including fuel taxes; (g) Fines, penalties and administrative charges; (h) Additional expense and handling charges charged to Agent by Carrier by reason of lateness or non-delivery of logs and other documents; (i) All costs of or charged to Agent in obtaining possession of shipments, documents and property of Agent and/or Carrier; (k) Charges and expenses in connection with chargeable accidents; (l) Delay claim payments; (n) Communication costs.

(3) Section 4 - (a) License, registration, permit, identification insignia, and all other such fees and/or taxes or assessments; (b) Amounts not received as refunds due to Contractor's acts; (c) Expenses accrued for duplication of lost, misplaced or stolen permits, plates, and wire authorities.

(4) Section 5 - (a) Expenses of repair, maintenance, damage, loss or shortage of Trailers and equipment; (b) Cost of OmniTRACS System on termination of the Agreement and monthly charges, if applicable; (c) Costs incurred in recovery, transportation, and repair of abandoned equipment.

(5) Section 6 - (a) Cargo loss and damage claims amounts; (b) Real property damage claims.

(6) Section 7 - (a) Performance bonds; (b) Insurance charges and costs.

(7) Section 8 - Amounts to Indemnify Agent and/or Carrier.

(8) Section 9 - (a) C.O.D. transportation charges and any other transportation charges required to be collected by Contractor and losses from theft, etc.



(9) Section 10 – (a) Cash Reserve Account deductions; (b) Cash Reserve Account maintenance amounts.

(10) Section 11 – (g) Interest charges due for settlement shortage.

(11) Section 14 – (c) Termination charges, costs, and expenses and liquidated damages.

(12) Section 15 – Amounts due Agent.

(b) In addition, Agent shall be authorized to deduct or charge back the following specific items:

(1) Any unearned amount that Agent has advanced to Contractor.

(2) Any amount required by law, including amounts for the payment of any tax liens and any other court-ordered payments, including child support.

(3) Any other amount authorized in writing by Contractor.

#### **14. TERM AND TERMINATION.**

(a) The term of this Agreement shall be for one year from the date executed, and shall be automatically renewed from year to year, unless terminated as follows:

(1) Either party may terminate this Agreement upon not less than 30 days written notice to the other.

(2) At its option, Agent may terminate this Agreement immediately by notice to Contractor if: (A) Contractor becomes insolvent, or makes a general assignment for the benefit of creditors or a receiver is appointed for Contractor or Contractor commits any act of bankruptcy; (B) Contractor is deemed financially insecure by Agent or Agent deems itself financially insecure respecting Contractor's finances or operations; or (C) Contractor breaches any of the terms, provisions, conditions or covenants of this Agreement.

(3) This Agreement shall terminate immediately upon any attempted assignment of it by Contractor, whether voluntary, by operation of law, or otherwise.

(b) At the option of Agent, a temporary suspension of Contractor's operations of one month per calendar year may be imposed or granted by Agent. In addition, Agent may, in lieu of cancellation of this Agreement, impose temporary suspensions for violations of contractual obligations. During any period of suspension, the Contractor shall place any Trailer(s) on Agent's premises at the address listed, or at such other location as may be designated by Agent, and shall remove from the equipment and place in Agent's possession all license plates and permits, other than those purchased by the Contractor, and shall cover Agent's and Carrier's name, symbols, insignia, and identification, on each tractor unit in such manner as to prevent identification of Agent and Carrier with the tractor unit during the period of suspension.

(c) Upon receipt of any notice of termination from Agent, Contractor shall:

(1) Immediately discontinue all operations under this Agreement provided that, upon Agent's request, Contractor shall complete delivery of any shipment that Contractor may then have in Contractor's possession and Contractor shall promptly return to Agent's premises at the address listed (or at such other location as may be designated by the Agent), any Trailer(s) and all other Agent-owned equipment and documents, including bills of lading, inventories, and any and all shipping documents, materials, and other evidences of operating authority in Contractor's possession. If Contractor fails or refuses to comply with any provision in the preceding sentence, Contractor shall pay to Agent upon written demand all costs and expenses (including reasonable attorney's fees) of Agent in effecting the delivery of any shipment, in addition to any other amounts provided in this Agreement.

(2) Immediately remove all identifying trademarks, signs, color combinations, and lettering referring to Carrier or Agent from the Equipment. If Contractor fails to comply with this provision within five days after receipt of notification, Contractor shall pay to the Agent the sum of \$50 per unit of Equipment per day as and for liquidated damages for each day of non-compliance; and, in addition, Agent may withhold payment of any and all amounts due Contractor or that may become due Contractor until evidence is furnished the

Agent by the Contractor that this compliance has been accomplished in accordance with Agent's requirements.

(3) Agent shall have the right to withhold final payment of any and all sums due Contractor until Contractor has fully complied with all the terms of this Section.

**15. RIGHT OF SET-OFF BY AGENT.**

Agent reserves the right to deduct any amounts due Agent under this or any other agreement between Agent and Contractor from any monies due to Contractor under this Agreement.

**16. SURVIVAL OF OBLIGATIONS.**

Contractor's obligations to Agent for payment of any amount incurred while this Agreement is in effect, including specifically amounts with respect to any cargo claim filed after the termination of this Agreement but relating to a shipment transported while the Agreement was in effect and Contractor's indemnity obligations under Section 8, shall survive the termination of this Agreement. The shippers and consignees of those shipments transported by Contractor on behalf of Agent generally have a period of nine months after delivery to make claims against Carrier, therefore, the amounts due Contractor may not be known for some time after termination of this Agreement. Agent shall continue to prepare and send to Contractor statements after termination of this Agreement to the extent that information changes on the amounts due and Contractor shall pay Agent any amount shown as due to Agent on such a statement within 15 days of receipt of the statement. A final accounting of all amounts due Contractor or Agent shall be completed by Agent no later than 360 days after the effective date of termination of this Agreement.

**17. NOTICES.**

Any and all notices required under this Agreement to be given by either party to the other shall be deemed to have been given upon mailing of the notice, if to Agent to the address listed, or if to Contractor, to the address set forth under Contractor's signature, or to any other address that either party may give notice of to the other party.

**18. AMENDMENT OF SCHEDULES.**

The Schedules to this Agreement may be amended from time to time by Agent. The amended Schedule or Schedules shall become effective when it or they are mailed to Contractor.

**19. WAIVER.**

The failure of either party to enforce at any time any of the provisions of this Agreement, or to exercise any option which is provided, or to require at any time performance by either party of any of its provisions, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part of it, or the right of either party to enforce each and every such provision.

**20. ASSIGNMENT.**

Contractor will not assign or transfer this Agreement, and any attempt on the part of Contractor to assign, whether by operation of law, voluntary or otherwise, shall terminate this Agreement.

**21. ATTORNEY'S FEES.**

If the Agent institutes or defends any action at law or in equity brought against or by Contractor and arising out of this Agreement and is successful in the action or in its defense, then Contractor shall be liable to Agent for reasonable attorney's fees for Agent in commencing or defending any such action or suit.

**22. INTERPRETATION, LAW APPLICABLE, ETC.**

**SCHEDULE A**

**SCHEDULE TO CONTRACTOR AGREEMENT  
SCHEDULE OF EQUIPMENT**

<b>Year</b>	<b>Make</b>	<b>Type</b>	<b>Serial Number</b>	<b>Unit Number</b>
<b>2002</b>	<b>Volvo</b>	<b>Conv.</b>	<b>4V4NC9TG53N337897</b>	<b>36177</b>



**SCHEDULE B  
SCHEDULE TO CONTRACTOR AGREEMENT**

**Payments to Contractor**

The following definitions and general rules are applicable to the determination of compensation:

- (a) Line haul and accessorial service charges shall be determined by applying the applicable effective or predetermined effective bottom line discount (determined under Carrier's rules) to the transportation and accessorial charges for each shipment.
- (b) Line haul and accessorial service charges for shipments transported under single factor ("SFR") pricing items or contracts shall be determined by applying the distribution percentage assigned to each specific SFR shipment as a discount to the tariff-based charges that would have applied to a non-SFR shipment.
- (c) Line haul and accessorial service charges will be increased to amounts equivalent to tariff charges discounted by no more than the Max Share protection level designated for each shipment whenever effective or predetermined effective bottom line discounts exceed the Max Share protection levels.
- (d) The Contractor is responsible for loading and unloading. Compensation for these services is included in the linehaul payment.
- (e) Mileage, when applicable, shall be determined in accordance with the current Household Goods Carriers' Bureau Mileage Guide.
- (f) Empty miles will be the responsibility of the Contractor. No compensation is provided for empty miles.

**Line Haul Service**

52% of line haul revenue for transportation earned less any pick-up or set-off charges incurred against these line haul revenues.

**Adjustments to Line haul Distribution**

Longevity (5 years) .....	Additional 1%
Owned Trailer .....	Additional 5%
Straight Truck .....	Additional 3%

**Exceptions to Above Hauling Commissions**

- (a) Contractor will receive 50% of 55% the hauler's portion of the insurance surcharge, after Carrier deductions, when charge is applicable.
- (b) 100% of the Fuel Surcharge.
- (c) 60% of hourly moving charge on local, commercial or hourly moves.
- (d) 60% of origin or destination service on international moves.
- (e) 60% of cartage fee when applicable.
- (f) 55% of flat rate auto charges.
- (g) 56% of line haul on Special Product shipments.
- (h) 60% of retained revenues on SmartMove services.

**Packing/Unpacking Labor and Container Compensation Schedule**

- (a) Packing Service
  - i. 90% of revenue earned from applicable packing container and/or packing labor, less Carrier deductions, when outside of Nelson Westerberg's specified origin areas.
  - ii. 90% or 75% or 55% of applicable packing revenues, less Carrier deductions, for shipments originating in geographical areas surrounding Nelson Westerberg agencies as defined by the Packing Labor Zone Schedule (subject to change).
- (b) Unpacking Service
  - i. 75% of net unpacking revenue earned for applicable unpacking labor revenue less Carrier deductions.

#### **Additional Services**

- (a) Waiting Time
  - i. 60% of net waiting time labor revenue.
  - ii. 60% of net waiting time vehicle revenue.
- (b) Shuttles
  - i. 100% of net shuttle labor revenue.
  - ii. 100 % of net shuttle vehicle labor
- (c) Other Accessorial Charges
  - i. 100% of all other assessorial charges when earned.

#### **Exceptions**

- (a) Partial Haul

On a shipment only partially hauled by Contractor, Contractor's revenue share shall be pro-rated based upon the number of miles Contractor hauled the shipment over the total miles. This percentage shall also be used to determine the Contractor's share of origin pickup expense on partially hauled shipments.
- (b) Overflow

On an overflow, the amount Agent will pay Contractor is the linehaul percentage as applied to the charges for the greater of: (i) 600 pounds; (ii) 10% of the gross actual weight of the total shipment; or (iii) the actual weight of the overflow.
- (c) Pickup and Hold

On shipments hauled by Contractor for which an origin pickup fee has been earned by another party, 100% of the fee shall be deducted from the amount due Contractor.
- (d) Set-Offs.

Any expense incurred on a shipment set-off en route prior to delivery for the Contractor's convenience shall be deducted from the amount due Contractor.

#### **Uniforms**

The contractor will provide uniforms, conforming in color and design to the Carrier's driver uniform specifications, in sufficient quantity to allow daily wear while in the Carrier's service.

#### **Tolls, Weight Tickets, Ferry and Bridge Charges**

The Contractor will pay the cost of all highway and bridge tolls, ferry charges, and all scale tickets required.

#### **Insurance**

The following insurance policies may be purchased from private insurance carriers through Carrier, and payments therefore charged to Contractor's account with the Carrier at the rates listed below:

- (a) Physical Damage Insurance

Coverage for loss of damage to Contractor's vehicle resulting from fire, theft, collision or other casualties are based on the age the value of the tractor, and are available from the Carrier upon request.
- (b) Public Liability and Property Damage Coverage

Required coverage when in the exclusive control and direction of the carrier. This coverage is available through the Carrier upon request.

Rates for (a) and (b) are as follows and are subject to change:

Tractor	\$780.00 per month
Straight Truck	\$430.00 per month
Trailers	\$375.00 per month
Pickup Trucks	\$425.00 per month
Pup Trailers	\$125.00 per month

(c) Bobtail Public Liability and Property Damage Insurance is required and available through Carrier at the rate of \$250.00 per year. This rate is subject to change.

(d) Worker's Compensation

Required Insurance covering all persons employed or engaged by Contractor. This coverage is available through the carrier and is subject to change at any time:

Worker's Compensation                      \$380.00 per month.

(e) License Fees

The following license fees will be assessed annually for trucks and tractors according based on Gross Vehicle Weight per the following schedule. At the Contractor's request, payment of these fees will be deducted from their account over a 9 week period. License fees include base plate and required permits. Fees are subject to change at any time:

GVW up to 12,000 pounds	\$ 180.00
12,001 to 24,000 pounds	\$ 360.00
24,001 to 42,000 pounds	\$ 784.00
42,001 to 59,500 pounds	\$1,464.00
59,501 to 64,000 pounds	\$1,574.00
64,001 to 73,280 pounds	\$1,802.00
73,281 to 77,000 pounds	\$2,064.00
77,001 to 80,000 pounds	\$2,200.00

(f) Fines and Penalties

- i. The administrative charge that will apply for each instance in which the carrier is required to repay any Federal, State or Local government body for fines or penalties assessed for driving or Equipment violations under paragraph 2 of the agreement is \$50.00.
- ii. Contractor's are subject to fines and/or penalties for failure to follow standard operating procedures as set forth in the Nelson Westerberg Owner Operator Services Manual or for failure to comply with Corporate policies. Fines and/or penalties are subject to change at any time.

(g) Cash Reserve Account

Under Sections 10(a) and 10(b), the initial amount of and the amount at which the Cash Reserve Account must be maintained is \$5,000.00. The Company reserves the right to increase this amount at any time.

(e) Background Investigation and Qualification Charges

Carrier will charge the Contractor current cost for investigation and qualification services performed for the Contractor, co-drivers, or helpers associated with the Contractor.

(h) Effective Date

The Schedule to Contractor Agreement will apply to all shipments loaded on or after

2-12-10  
Date

The parties have executed this Addendum as of

~~10~~ February 12, 2010  
DATE

  
AGENT (Signature)

Tom Mervyn  
CONTRACTOR (Signature)

By: Dion Hoops  
AGENT (Printed Name)

Tom Mervyn  
CONTRACTOR (Printed Name)

Title: Director of Ops.  
AGENT (Title Printed)



## MOTOR VEHICLE LEASE AGREEMENT

THIS AGREEMENT is made in Evansville, Indiana, by and between Nelson Westerberg 1511 the owner or lessee from a third party of the motor vehicle(s) described (the "Lessor"), and ATLAS VAN LINES, INC., a motor carrier ("Atlas"), with its principal place of business at 1212 St. George Road, Evansville, Indiana, 47711.

For and in consideration of their mutual covenants, the parties agree as follows:

1. Lessor leases to Atlas the following described motor vehicle(s) (the "Equipment") for Atlas' exclusive use, possession and service while the Equipment is being operated for Atlas in the regular conduct of its business as a motor carrier.

TYPE OF VEHICLE	YEAR	MAKE	SERIAL NO.	STATE OF LICENSE
Tractor	03	VLV	4V4NC9TG53N337897	TX
Truck				
Semi-Trailer				

2. The Equipment shall be used exclusively in the business and service of Atlas in compliance with all applicable rules, regulations, instructions and tariffs of Atlas while it is being operated for Atlas.

3. At its or his own cost, Lessor shall (a) maintain the Equipment in good condition and repair, in full conformity with the requirements of all applicable State and Federal laws, rules and regulations of the Department of Transportation and the regulatory agencies of the States into which or through which it is operated; (b) service the Equipment; (c) pay all costs and expenses incident to the operation of the Equipment, including but not restricted to wages, taxes, license plates, permits, oil, fuel, tires, repairs, turnpike and bridge tolls, payroll deductions, owner-operator payments, insurance fund payments, fines, costs or expenses incurred in the operation of the Equipment; and (d) provide other equipment and accessories necessary in the operation of the Equipment. Lessor shall reimburse Atlas for all such Equipment operating costs, permits, licenses, taxes, fees or expenses assessed by Atlas for the Equipment.

4. Lessor shall furnish personnel to operate the Equipment who are competent and qualified to operate the Equipment and meet the requirements of all applicable laws, rules and regulations. Lessor shall indemnify and save harmless Atlas against legal liability for (a) any loss resulting from the injury or death of such operating personnel, and (b) any loss or damage resulting from the negligence, incompetence or dishonesty of such operating personnel.

5. Atlas shall not be liable for any loss or damage to or destruction of the Equipment. Lessor releases Atlas from and against any claim or demand arising from any loss or damage.

6. Unless otherwise agreed by the parties in writing, no tags, markers or other identification of Atlas shall be used in or upon the Equipment except when the Equipment is in the exclusive service of Atlas.

7. Lessor shall obtain and maintain at its or his own cost public liability, property damage and workers compensation insurance in the limits required by and with companies approved by Atlas. The policies of insurance shall bear such endorsements in favor of Atlas as Atlas shall direct.

8. The Equipment, while being operated for Atlas, shall be solely and exclusively under the direction and control of Atlas, which shall assume full carrier responsibility to shippers and the general public for (a) loss or damage to cargo transported in the Equipment and (b) for the operation of the Equipment.

9. Atlas shall pay Lessor compensation for the use of the Equipment specified in the applicable rules of Atlas or in a separate independent contractor agreement as full and complete payment for the performance by Lessor of all obligations imposed.

10. Atlas assumes the obligations imposed by 49 CFR §376.12(m) but Lessor shall indemnify and hold harmless Atlas from any and all causes of actions, claims or expenses, including reasonable attorneys' fees, asserted against Atlas by any party covered by such regulation.

This Lease shall continue from year to year; provided, however, that this Lease may be terminated on 30 days written notice by registered mail by either party to the last known address of the other and, if Lessor is also a party to a separate agency agreement with Atlas, this Lease shall automatically terminate at any time Lessor is no longer a party to such an agreement.

IN WITNESS WHEREOF, the parties have executed this Lease on the dated indicated.

WITNESS

Jan Buehl

Dated Feb 12 20 10

Nelson Westerberg

Lessor

By Libby Hoops

ATLAS VAN LINES, INC.

By Patty Miller

Lessee

AVL Copy

O.F. 113031  
Rev. C

**Terms and Conditions of the Bill of Lading**REGISTRATION NUMBER  
HN951940

This is the contract of carriage between Atlas Van Lines, Inc. ("we" or "us") and you, the owner(s) and/or shipper of the goods covered by this contract. If your goods are being moved under a contract between us and your employer or another party, the terms of that contract will apply, PROVIDED THAT, BY ACCEPTING DELIVERY OF THE SHIPMENT, YOU WILL BE LIABLE FOR THE PAYMENT OF ALL CHARGES IF THE EMPLOYER OR OTHER THIRD-PARTY DOES NOT PAY THEM. We agree to transport your household goods under the following terms:

1. All of the provisions of our tariffs (available on request), including those setting out the charges for your shipment, some of which may not be included on the front of this bill of lading, are incorporated into this contract.

2. We are not obligated to transport your shipment by any particular schedule, means or vehicle, other than with reasonable dispatch. We may deliver your shipment on any date within the delivery dates specified in this bill of lading. If we cannot make delivery at the address shown on this bill of lading or any other address of which you have notified us for any reason that is not our fault (including your failure to pay amounts due or unavailability to accept delivery on a date within the specified delivery dates), then we, at our option, may store your shipment at your cost in a warehouse selected by us in the general area of the specified destination.

3. You, upon tender of the shipment to us, and the person to whom the goods are to be delivered if different than you (the "Recipient"), upon acceptance of delivery of the shipment from us, shall be liable, together and individually, to pay all charges due on account of the shipment pursuant to our tariffs. The extension of credit, if any, to either you or the Recipient for unpaid charges shall not relieve the other party of the obligation to pay the charges. YOU AND THE RECIPIENT ARE LIABLE TO US FOR A SERVICE CHARGE EQUAL TO 1% OF THE UNPAID CHARGES FOR THE SHIPMENT (MINIMUM \$20.00) FOR EACH 30-DAY PERIOD THAT THE CHARGES REMAIN UNPAID AND FOR THE FULL AMOUNT INCURRED BY US IN COLLECTING ANY AMOUNT DUE ON YOUR SHIPMENT, INCLUDING COSTS AND ATTORNEYS' FEES.

4. Subject to the exceptions and limitations set forth below, we shall be liable for physical loss, damage or delay to your goods from external causes while we are transporting them or they are being held in storage-in-transit. We will not be liable for any such loss, damage or delay caused by or resulting from (a) your or the Recipient's act of omission; (b) defects in the goods or loss or damage that is unavoidable due to the nature of the goods, including susceptibility to damage because of atmospheric conditions and changes in those conditions, such as humidity or temperature; (c) hostile, warlike or terrorist activity, government action, strikes, lockouts or civil disturbances (all as further defined in our tariffs); (d) acts of God; and (e) with respect only to

delays, highway obstructions, faulty, inadequate or impassable highways or bridges, lack of ferry capacity, or breakdowns or mechanical defects in vehicles or equipment (from any cause other than our negligence). In particular, we shall not be liable for and you shall indemnify us against loss or damage caused by the inclusion in your shipment of explosives or dangerous articles.

5. In addition, our liability will be limited by the valuation option that is selected by you on the order for service or, if your employer or another party is paying for your move, by that party. Our maximum liability shall be: (a) the lesser of 60 cents per pound times the actual weight of any lost or damaged article or the actual loss or damage to the article if the shipment was released to us with liability limited to 60 cents per pound per article; (b) the greater of \$6.00 per pound times the weight of the shipment or the declared lump sum value, in each case subject to a minimum of \$10,000, subject to any selected deductible option and the specific terms of Item 1502 (Full Value Protection) of our tariff; or (c) if no value is declared, \$6.00 per pound times the weight of the shipment, subject to the specific terms of Item 1502 (Full Value Protection) of our tariff. The weight used for determining the minimum valuation shall be the actual weight or, if the shipment is transported pursuant to the terms of 1501 (Binding Estimate Program) of our tariff, the estimated weight. The terms of our tariffs contain more complete explanations on the limits of our liability, give us the option to repair or replace items on which claims are made and set specific limits on certain items, e.g. automobiles.

6. In order to be able to recover any amount from us, you must file a written claim with us for any loss, damage, injury or delay. We must receive your claim at our headquarters within nine months after delivery of your shipment. If we fail to deliver your entire shipment, we must receive your claim at our headquarters within nine months after a reasonable time for delivery has passed. You must file any lawsuit within two years and one day from the date when we give you written notice that we have disallowed your claim or any part of it. We may not pay your claim if there are charges due on your shipment. If your claim is for an overcharge, you must contest the charges with us within 180 days of receipt of the initial bill for the charge and file a lawsuit within 18 months of receipt of such bill. When you do not file a claim or lawsuit within the time periods indicated, we will not be liable to you and the claim will not be paid. Our tariffs include information required to be included in a claim.

7. This contract applies to you and to anyone else claiming any interest in the goods. Unless you specifically advise us otherwise, you authorize any person who releases your shipment to us at origin or accepts it at delivery to act for you and sign any document in connection with your shipment. If no one is authorized to act for you, you may be required to be present in person.

# **EXHIBIT C**

## \*\*\*\*\* DRIVER SETTLEMENT SHEET \*\*\*\*\*

Driver: MERVYN, THOMAS CSC#:206761 Reg#: HN-00607-0 Date: 06/15/09

Shipper: EVANS, RICK Origin: TX Dest: ID Type: H

Linehaul 6652.29 \* 58% = \$ 3,858.33

Auto L/H .00

Fuel Surcharge \$6652.29 \* .58 = \$3,858.33 815.84Item 60 Surchg \$7416.79 \* .58 = \$4,301.74 .00Less/Plus P/U LINE HAUL DAMAGES: \$4,301.74-\$3,858.33=\$443.41 .00ATC SEE NEXT PAGE Origin: 354.49 Dest: 146.19 500.68

Auto Handle P/U: .00 Del: .00 .00

Cartage .00

Cartage/Item 60 .00

Containers 958.11

Pack Labor 1,190.81

Unpack 19.05

Crates .00

OA Deduction .00

Appl Svc: Origin: .00 Dest: .00 .00

Add'l Labor 40.84

Piano .00

Extra PU/Del .00

OT Load/Unload .00

Origin - Carry: .00 Elev: .00 Flts: .00 .00

Dest - Carry: .00 Elev: .00 Flts: .00 .00

Auto Load 52.03 Bulky Article 0.00 52.03

Other Revenue: .00

Shuttle Labor Origin: .00 Dest: .00 .00

Shuttle Van Origin: .00 Dest: 861.42 861.42

W/Time Labor Origin: .00 Dest: .00 .00

W/Time Van Origin: .00 Dest: .00 .00

Whse Handling .00

Export/Import .00 Bridge/Ferry: .00 .00

GBL Disc/Govt Ins Fee .00

Misc Payments .00

Misc Debits .00

Insurance Deduction ( 266.09)

GROSS SETTLEMENT: \$ 8,031.02

LESS RETAINAGE: .00 % OF GROSS .00

NET SETTLEMENT: \$ 8,031.02

Ebld: Booker: ACE WORLD WIDE MOVING &amp; STORAG

Weight: 16840 Lbs

Miles: 1605

Ctrl #: 127937 Admin Id: 20007 ELFI JACKOWSKI

Remarks:



# **EXHIBIT D**

RTDSHN-00607-0 EVANS RICK				RED RATING SCREEN OK		INIT	BL	SR 1
Case: 1:13-cv-03587 Document #: 1 Filed: 05/14/13 Page 74 of 74 PageID #: 74				understated linehaul used to calculate o/o compensation			PF12 = HELP	
	GROSS BILLED	BILLED%	NET BILLED		GROSS DIST	SHARED%	DIST CHGS	
L/H	18541.98	60.00	7416.79		18200.51	63.45	6652.29	
FUEL LH	2039.61	60.00	815.84		2039.61	60.00	815.84	
INS CHG		60.00			727.99	63.45	266.08	
FREE FV					258.00		258.00	
O-LBR	65.77	60.00	26.31		67.09	63.45	24.52	
D-LBR	60.16	60.00	24.06		61.36	63.45	22.43	
3RD PAR	911.00		911.00		911.00		911.00	
PKG	6799.44	60.00	2719.78		6934.88	63.45	2534.70	
UNPKMAT	58.76	60.00	23.50		59.91	63.45	21.90	
OSERCHG	1092.92	60.00	437.17		1114.81	63.45	407.46	
DSERCHG	449.63	60.00	179.85		459.73	63.45	168.03	
=====								
TOTALS								
LESS EXCL								
SUBTOTAL					EFF LINEHAUL			
LESS 60.00 % BLD					EFF BOTTOM LINE			
LESS L/H DISC					STG ORIGIN			
LESS ACC DISC					STG DESTIN			
SUBTOTAL					ALASKAN/NON STG			
PLUS EXCLUSIONS								
TOTAL BILLED								