

Apple Express



Carrier Profile

1016 W. Jackson Blvd, Chicago, IL 60607
ph: (708) 493-9000, fax (312) 733-6170

accounting@appleexpress.us

www.appleexpress.us





CARRIER PROFILE

Please print legibly

CARRIER NAME: _____

DBA if applicable: _____ Fed ID #: _____

MC #: _____ DOT #: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

COMPANY DISPATCH

DISPATCH CONTACT NAME(S): _____ TITLE: _____

PHONE: _____ EXT. _____ FAX: _____

CELL: _____ EMAIL: _____

COMPANY GENERAL INFO

OWNER/PRESIDENT: _____ PHONE: _____

NUMBER OF TRUCKS: _____ NUMBER OF DRIVERS: _____

NUMBER OF TRAILERS: _____ FLATS _____ STEPS _____ VANS _____ REEFERS _____ OTHER _____

COMPANY SAFETY/INSURANCE CONTACT: _____

PHONE: _____ EMAIL: _____

SAFETY RATING: _____

INVOICING

BILLING EMAIL: _____ BILLING FAX: _____

ARE INVOICES ASSIGNED TO OUTSIDE AGENCY? _____ (IF YES, Attach **Letter of Assignment***)



Dear Contract Carrier,

Apple Express would like to add your company to our growing list of active approved carriers.

Please return the following information by fax or mail in order to be placed on active status.

_____ Carrier Profile (attached)

_____ Carrier's Registration and D.O.T. Safety Rating review letter

_____ Completed form W9

_____ Cargo insurance certificate making Apple Express a certificate holder
(\$100,000 minimum with no cargo exclusion).

_____ All auto liability insurance certificates naming Apple Express as certificate holder. Combined
single limit minimum of \$1,000,000.

_____ Signed Hazmat – 232 Compliance Page (attached / if applicable)

_____ Signed copy of the Transportation Brokerage Agreement (attached)

Base:

City: _____ State: _____ Country: _____

Destination: USA

- | | | | | |
|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| <input type="checkbox"/> AK | <input type="checkbox"/> IL | <input type="checkbox"/> MS | <input type="checkbox"/> OH | <input type="checkbox"/> VA |
| <input type="checkbox"/> AZ | <input type="checkbox"/> IN | <input type="checkbox"/> MO | <input type="checkbox"/> OK | <input type="checkbox"/> WA |
| <input type="checkbox"/> AR | <input type="checkbox"/> IA | <input type="checkbox"/> MT | <input type="checkbox"/> OR | <input type="checkbox"/> WV |
| <input type="checkbox"/> CA | <input type="checkbox"/> KS | <input type="checkbox"/> NE | <input type="checkbox"/> PA | <input type="checkbox"/> WI |
| <input type="checkbox"/> CO | <input type="checkbox"/> KY | <input type="checkbox"/> NV | <input type="checkbox"/> RI | <input type="checkbox"/> WY |
| <input type="checkbox"/> CT | <input type="checkbox"/> LA | <input type="checkbox"/> NH | <input type="checkbox"/> SC | |
| <input type="checkbox"/> DE | <input type="checkbox"/> ME | <input type="checkbox"/> NJ | <input type="checkbox"/> SD | |
| <input type="checkbox"/> FL | <input type="checkbox"/> MD | <input type="checkbox"/> NM | <input type="checkbox"/> TN | |
| <input type="checkbox"/> GA | <input type="checkbox"/> MA | <input type="checkbox"/> NY | <input type="checkbox"/> TX | |
| <input type="checkbox"/> HI | <input type="checkbox"/> MI | <input type="checkbox"/> NC | <input type="checkbox"/> UT | |
| <input type="checkbox"/> ID | <input type="checkbox"/> MN | <input type="checkbox"/> ND | <input type="checkbox"/> VT | |

Destination: CANADA

- | |
|-----------------------------|
| <input type="checkbox"/> AB |
| <input type="checkbox"/> BC |
| <input type="checkbox"/> MB |
| <input type="checkbox"/> NB |
| <input type="checkbox"/> NL |
| <input type="checkbox"/> NS |
| <input type="checkbox"/> ON |
| <input type="checkbox"/> PE |
| <input type="checkbox"/> QC |
| <input type="checkbox"/> SK |



MC 803478
Transportation Brokerage Agreement

This Agreement is entered into this _____, day of _____, 2_____, by and between APPLE EXPRESS INC., Chicago, IL ("BROKER"), a Registered Property Broker, Lic. No. MC-803478, and _____, a Registered Motor Carrier, Permit/Certificate No. DOT: _____
MC#: _____ ("CARRIER"); collectively, the "Parties" ("Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration (or its predecessors) within the U.S. Department of Transportation).

1. CARRIER represents and warrants that:

(a) CARRIER is a Registered Motor Carrier of Property authorized to provide transportation of property under contracts with shippers and receivers and/or brokers of general commodities. "Registered" means operated under authority issued by the Federal Motor Carrier Safety Administration (or its predecessors) within the U.S. Department of Transportation.

(b) CARRIER shall transport the property, under its own operations authority identified above, and not under the authority of any other Motor Carrier, and subject to the terms of the Agreement.

(c) CARRIER is the sole Motor Carrier for any property transported pursuant to this Agreement or offered to CARRIER by BROKER,

(d) CARRIER agrees that a Shipper's insertion of BROKER's name as the carrier on a bill of lading is erroneous, shall be corrected by CARRIER, and if not corrected, shall be for the Shipper's convenience only and shall not change BROKER's status as a property broker, nor shall it change CARRIER's status as a motor carrier.

(e) CARRIER will not re-broker, co-broker, subcontract, assign, interline, or transfer the shipments hereunder, without prior written consent of BROKER. If CARRIER breaches this provision, BROKER shall have the right of paying the monies it owes CARRIER directly to the Delivering Carrier, in lieu of payment to CARRIER. Upon BROKER's payment to Delivering Carrier, CARRIER shall not be released from any liability to BROKER under this Agreement. In addition to the indemnity obligation in Par 1.H, CARRIER will be liable for consequential damages for violation of this Paragraph. Delivering Carrier means the motor carrier that physically transported the freight.

(f) i. CARRIER is in compliance, and shall maintain compliance during the term of this Agreement, with all applicable federal, state and local laws relating to the provision of its services including, but not limited to: transportation of Hazardous Materials, (including the licensing and training of drivers), as defined in 49 C.F.R §172.800, §173, and §397 et seq. to the extent that any shipments hereunder constitute Hazardous materials; security regulations; owner/operator lease regulations; loading and securement of freight regulations; implementation and maintenance of driver safety regulations including, but not limited to, hiring, controlled substances, and hours of service regulations; , sanitation, temperature, and contamination requirements for transporting food, perishable, and other products; qualifications and licensing and training of drivers; implantation and maintenance of equipment safety regulations; maintenance and control of the means and method of transportation including, but not limited to, performance of its drivers; and all applicable insurance laws and regulations, including, but not limited to, workers' compensation.

ii. CARRIER is solely responsible for any and all management, governing, discipline, direction and control of its employees, owner/operators, and equipment with respect to operating within all applicable federal and state legal and regulatory requirements to ensure the safe operation of CARRIER's vehicles, drivers and facilities. CARRIER and BROKER agree that safe and legal operation of the CARRIER and its drivers shall completely and without question govern and supersede any service requests, demands, preferences, instructions, and information from BROKER or BROKER's customer with respect to any shipment at any time.

(g) CARRIER will notify BROKER immediately if its federal Operating Authority is revoked, suspended or rendered inactive for any reason; and/or if it is sold as an entity or in the case of an asset purchase involving a significant percentage of the company's assets, or if there is a change in control of ownership, and/or any insurance required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason.

(h) CARRIER may transport temperature controlled goods and represents and warrants that when such loads are accepted, CARRIER is experienced in transporting refrigerated products and understands that delivery time requirements and temperature specifications are critical. CARRIER agrees that in the event that a shipment is rejected due to late delivery and/or actual or alleged damage or loss to a temperature-controlled products arising from a temperature related issues that CARRIER will immediately notify BROKER.

(i) CARRIER MOVING PERISHABLES: Carrier warrants that the carrier will inspect or hire a service representative to inspect a vehicle's refrigeration or heating unit at least once each month. Carrier warrants that they shall maintain a record of each inspection of refrigeration or heating unit and retain the records of the inspection for a least one year. Copies of these records must be provided upon request to the carrier's insurance company and Broker. Carrier warrants that they will maintain adequate fuel levels for the refrigeration or heating unit and assume full liability for claims and expenses incurred by the Broker or the shipper for failure to do so. The carrier must provide their cargo insurance carrier with all records that relate to a loss and permit copies and abstracts to be made from them upon request. The following rules shall apply: (a) Destination market value for lost or damaged cargo, no special or consequential damages unless by special agreement; (b) Claims will be filed with Carrier by Shipper; (c) claims notification procedures will be followed in accordance with procedure described in 49 C.F.R. 370.1-11.

(j) CARRIER shall provide broker with immediate notice of any alleged or actual circumstances that may have caused, contributed to, or resulted in freight damage or loss. Notice shall be provided by telephone, fax, and/or email. CARRIER shall not sell, auction, or otherwise salvage or dispose of any allegedly damaged or compromised shipment without providing at least thirty (30) days notice in writing (certified mail or fax with proof of delivery machine printed on paper) to BROKER and shipper of the scheduled date, time and place of sale or other intended disposition.

(k) Indemnity: CARRIER shall defend, indemnify and hold BROKER and its shipper customer harmless from any and all claims, actions, suits, demands, or damages, arising out of or related to CARRIER'S acts, omissions, or performance under this Agreement, including, but not limited to, cargo loss or damage, theft, delay, damage to real or personal property, personal injury or death. The obligation to defend shall include any and all costs of defense as they accrue, including but not limited to attorney's fees from counsel of BROKER'S choice. The term, "claims" as used herein shall include, but not be limited to, actions, suits, demands, or damages of any kind.

The indemnity obligations of this paragraph include but are not limited to the following circumstances with respect to the transportation of temperature-controlled freight:

Claims, suits, or damages arising out of or related to security (including but not limited to seals) causing, contributing to, or resulting in contamination, compromise, damage or loss in whole or in part to any shipment; Claims,

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suits, or damages arising out of incorrect temperatures, including but not limited to failure of CARRIER to pre-cool a trailer to the proper temperature; Claims, relating to destruction or salvage of any shipment requiring temperature control protection that resulted in required destruction of the shipment due to failure to maintain required temperatures eliminating the ability to salvage the shipment in whole or in part.

Claims, suits, or damages arising out of or related to discrepancies with respect to dates and temperature requirements on bills of lading and load/rate confirmation sheets.

Claims, suits, or damages arising out of or related to any refrigerated shipment that is partially or wholly rejected for any reason, or that CARRIER is unable to deliver for any reason.

Claims, suits, or damages arising out of disposition or salvage of any product, including but not limited to failure to follow instructions of shipper or BROKER, to ensure that the product is maintained to permit salvage such as, (but not limited to), placing temperature-controlled freight in a storage facility at the required temperature.

(l) CARRIER does not have an "unfit," "unsatisfactory," or "marginal" safety rating issued by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, and will notify BROKER in writing immediately if its safety rating is changed to "unfit," "unsatisfactory," "conditional," or "marginal". CARRIER shall be responsible and indemnify BROKER for all liability, fees, defense costs, and damages asserted or imposed against BROKER arising out of or related to violation of this paragraph.

(m) CARRIER authorizes BROKER to invoice CARRIER's freight charges to shipper, consignee, or third parties responsible for payment.

(n) CARRIER has investigated, monitored, and agrees to conduct business hereunder based on the credit-worthiness of BROKER and is granting BROKER credit terms accordingly.

2. Broker responsibilities:

(a) **SHIPMENTS, BILLING, & RATES:** BROKER agrees to solicit and make efforts to obtain freight transportation business for CARRIER to the mutual benefit of CARRIER and BROKER, and shall offer CARRIER at least one (1) load/shipment annually. BROKER shall inform CARRIER of (a) the place of origin and destination of all shipments; and (b) if applicable, any special, unusual, or unique shipping instructions or special, unusual, or unique equipment requirements, of which BROKER has been timely notified by shipper.

(b) BROKER agrees to conduct all billing services to shippers or other party responsible for payment. CARRIER shall invoice BROKER for its (CARRIER'S) charges, as mutually agreed in writing, by fax, or by electronic means, contained in BROKER's Rate Confirmation Sheet(s), which are incorporated herein by reference. Additional rates for truckload or LTL shipments, or modification or amendments of the above rates, or additional rates, may be established to meet changing market conditions, shipper requirements, BROKER requirements, and/or specific shipping schedules as mutually agreed upon, and shall be confirmed in writing (or by fax or email or other written electronic means) by both Parties. Any such additional, modified, or amended rates, changes in rates shall automatically be incorporated herein by this reference.

(c) **RATES:** Additionally, any rates, which may be verbally agreed upon, shall be deemed confirmed in writing where CARRIER has billed the agreed rate and BROKER had paid it. All written confirmations or rates, including confirmations by billing and payment, shall be incorporated herein by this reference. Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, released rates or values, or tariff rules or circulars, shall only be valid when specifically agreed to in a signed writing by the Parties.

(d) **PAYMENT:** The Parties agree that BROKER is the sole party responsible for payment of CARRIER's charges. Failure of BROKER to collect payment from its customer shall not exonerate BROKER of its obligation to pay CARRIER. BROKER agrees to pay CARRIER's invoice within 30 days of receipt of a legible and understandable copy of the bill of lading, signed Rate Confirmation Sheet, and any and all other documents pertaining to the load reasonably required by BROKER, provided CARRIER is not in default under the terms of the Agreement. CARRIER shall not seek payment from Shipper if Shipper can prove payment to BROKER.

(e) **BOND:** BROKER shall maintain a surety bond/trust fund as agreed to in the amount of \$75,000 and on file with the Federal Motor Carrier Safety Administration (FMCSA) in the form and amount not less than that required by that agency's regulations.

(f) BROKER's responsibility is limited to arranging for, but not actually performing, transportation of a shipper's freight.

3. Carrier responsibilities:

(a) **EQUIPMENT:** Subject to its representations and warranties herein, CARRIER agrees to provide the necessary equipment and qualified personnel for completion of the transportation services required for BROKER and/or its customers. CARRIER will not supply equipment that has been used to transport hazardous wastes, solid, or liquid, regardless of whether they meet the definition in 40 C.F.R. § 261.1 et. seq. CARRIER agrees that all shipments will be transported and delivered timely as required by shipper or BROKER. When transporting temperature controlled goods, CARRIER will furnish equipment for transporting refrigerated products which is sanitary, and free of any contaminations, suitable for the particular commodity being transported, and which will not cause in whole or in part adulteration of the commodity as defined in 21 U.S.C. § 342.

(b) **BILLS OF LADING:** CARRIER shall sign a bill of lading in compliance with 49 C.F.R. §373.101 (and any amendments thereto), for the property it receives for transportation under the Agreement, and CARRIER shall clearly identify itself as the CARRIER on the bill of lading. Unless otherwise agreed in writing, CARRIER shall become fully responsible/liable for the freight when it takes/receives possession thereof, and the trailer(s) is/are loaded, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to CARRIER, and which responsibility/liability shall continue until delivery of the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of the bill of lading (including but not limited to payment terms) inconsistent with the terms of the Agreements shall be controlled by the terms of this Agreement. Failure to issue a bill of lading, or sign a bill of lading acknowledging receipt of the cargo, by CARRIER, shall not affect the liability of CARRIER.

(c) LOSS & DAMAGE CLAIMS:

i. CARRIER shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations adopted by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, or any applicable state regulatory agency, for processing all loss and damage claims and salvage.

ii. **Carrier's Cargo Liability.** Carrier assumes full liability for the greater of replacement cost or invoice value for loss, damage or destruction of any and all goods or property tendered to Carrier by Broker, and for the full course of carriage. Carrier shall inspect each load at the time it is tendered to Carrier to assure its condition. If Carrier is tendered a load which is not in suitable condition, it shall notify Broker, immediately. Cargo which has been tendered to Carrier intact and released by Carrier in a damaged condition, or lost or destroyed subsequent to such tender to Carrier, shall be conclusively presumed to have been lost, damaged or destroyed by Carrier unless Carrier can establish otherwise by clear and convincing evidence. Deliveries with broker seals shall be rejected and declared a total loss for which the Carrier is held responsible. Carrier shall either pay Broker directly or allow Broker to deduct from the amount Broker owes Carrier, the amount of Customer's full actual loss. Carrier agrees that it will assert no lien against cargo transported hereunder. Broker, shall deduct from the amount Broker otherwise owes Carrier, the Customer's full actual loss of all claims that are not resolved within ninety (90) days of the date of the claim. Carrier agrees to indemnify Broker, for any payments relating to such loss or damage incurred hereunder. In the event of an accident, Carrier shall notify Broker immediately for further instructions. Carrier shall return all damaged shipments at its expense to the point of origin or to other points as instructed by Broker. Claims notification procedures will be followed in accordance with the procedure described in 49 C.F.R. §370.1-11. Carrier will make all payments pursuant to the provisions of this Section within thirty (30) days following receipt by Carrier of Customer's invoice or demand and supporting documentation for claim.

iii. **Special Damages:** CARRIER's indemnification liability herein for freight loss and damage claims shall include legal fees which shall constitute special damages, the risk of which is expressly assumed by CARRIER, and which shall not be limited by any liability of CARRIER under sub par (ii) above.

iv. Except as provided herein, neither Party shall be liable to the other for consequential damages without prior written notification of the risk of loss and its approximate financial amount, and agreement to assume such responsibility in writing. Loss or damages arising out of delayed delivery, failed delivery, or failure to maintain required temperatures of refrigerated shipments shall not constitute "consequential damages" but fall within the categories of damages covered by the Indemnity Section 1(j) and elsewhere

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herein.

v. Notwithstanding the terms of 49 C.F.R. 370.9, BROKER will submit freight loss and damage claims in compliance with 49 CFR 370.1 et seq. to CARRIER within 12 months of delivery date or scheduled delivery whichever is later. CARRIER shall pay, decline or make settlement offer in writing on all cargo loss and damage claims within 30 days of receipt of the claim. Failure of CARRIER to pay, decline or offer settlement within this 30 day period shall be deemed admission by CARRIER of full liability for the amount claimed and a material breach of the Agreement.

(d) **INSURANCE:** CARRIER is responsible for its own insurance in accordance with federal law, and shall provide evidence to BROKER of coverage for CARRIER by furnishing BROKER with Certificate(s) of Insurance, or insurance policies providing thirty (30) days advance written notice of cancellation or termination, and unless otherwise agreed, subject to the following minimum limits: Public liability \$1,000,000.00; motor vehicle (including hired and non-owned vehicles), \$1,000,000.00 (\$5,000,000.00 if transporting hazardous materials including environmental damages due to release or discharge of hazardous substances) and including coverage for remediation and clean-up costs; cargo damage/loss \$100,000.00; workers' compensation, insurance for CARRIER'S employees as required by law with limits required by law. Except for the higher coverage limits that may be specified above, the insurance policies shall comply with minimum requirements of the Federal Motor Carrier Safety Administration and any other applicable regulatory state agency. Nothing in this Agreement shall be construed to limit CARRIER'S liability due to any exclusion or deductible in any insurance policy. All insurance required by this Agreement must be written by an insurance company having a Best's rating of "B+" VII or better and must be authorized to do business under the laws of the state(s) or province(s) in which Carrier provides the transportation and related services as specified in load confirmation communications received from Broker. CARRIER is permitted to carry "scheduled autos" policies, provided the specific vehicle to be utilized under this agreement is named on CARRIER'S insurance schedule, and that the coverage limits of the utilized vehicle meet the above specifications. CARRIER agrees to only utilize vehicles that carry the above-specified limits for BROKER'S shipments. In the event of a breach of this term, CARRIER shall be fully liable for any loss or damage not covered by insurance, including but not limited to reasonable attorney fees, and agrees to indemnify BROKER therefore.

(e) **ASSIGNMENT OF RIGHTS:** CARRIER automatically assigns to BROKER all its rights to collect freight charges from Shipper or any other responsible third party on receipt of payment from BROKER.

(f) CARRIER assumes full responsibility and liability for payment of the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, old age pensions, workers' compensation, social security, with respect to persons engaged in the performance of its transportation services hereunder. BROKER shall not be liable for any of the payroll-related tax obligations specified above and CARRIER shall indemnify, defend, and hold BROKER harmless from any claim or liability imposed or asserted against BROKER for any such obligations. Carrier acknowledges that CARRIER is solely responsible for the operation of CARRIER'S business, that CARRIER alone is responsible for the financial success of CARRIER'S business, that the opportunity for profit and risk of loss is that of CARRIER alone, and that CARRIER is accordingly responsible for all taxes, fees, or other obligations owed by CARRIER to governmental entities or other third parties.

4. Miscellaneous:

(a) **INDEPENDENT CONTRACTOR:** It is understood and agreed that the relationship between BROKER and CARRIER is that of independent contractor and that no employer/employee relationship exists, or is intended. BROKER has no control of any kind over CARRIER, including but not limited to routing of freight, or any other aspects of the manner or method of the work or services performed by CARRIER or otherwise, and nothing contained herein shall be construed to be inconsistent with this provision. None of the terms of this Agreement, or any act or omission of either Party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between the Parties. CARRIER shall provide the sole supervision and shall have exclusive control over the operations of its employees, contractors, agents, as well as all vehicles and equipment used to perform its transportation services hereunder. BROKER has no right to discipline or direct the performance of any driver and/or employees, contractors, subcontractors, or agents of CARRIER. CARRIER represents and agrees that at no time and for no purpose shall it represent to any party that it is anything other than an independent contractor in its relationship to BROKER.

(b) **NON-EXCLUSIVE AGREEMENT:** CARRIER and BROKER acknowledge and agree that this contract does not bind the respective Parties to exclusive services to each other. Either party may enter into similar agreements with other carriers, brokers, or freight forwarders.

(c) WAIVER OF PROVISIONS:

(i) Failure of either Party to enforce a breach or waiver of any provision or term of this Agreement shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of either Party to thereafter enforce such a term or provision.

(ii) This Agreement is for specified services pursuant to 49 U.S.C. § 14101(b). To the extent that terms and conditions herein are inconsistent with part (b) Subtitle IV, of Title 49 U.S.C., the Parties expressly waive all rights and remedies they may have under the Act.

(d) DISPUTES:

i. In the event of a dispute arising out of this Agreement, including but not limited to Federal or State statutory claims, the Party's sole recourse (except as provided below) shall be to arbitration. Provided, however, either Party may apply to a court of competent jurisdiction with venue in Illinois for injunctive relief. Arbitration proceedings shall be conducted under the rules of the Transportation Arbitration and Mediation PLC (TAM), or upon agreement of the Parties, arbitration proceedings may be conducted outside of the administrative control of the TAM. Arbitration proceedings shall be started within eighteen (18) months from the date of delivery or scheduled date of delivery of the freight, whichever is later. The decision of the arbitrator(s) shall be binding and final and the award of the arbitrator may be entered as judgment in any court of competent jurisdiction. The prevailing party shall be entitled to recover costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken to enforce the award of the arbitrator(s). Arbitration proceedings shall be conducted at the office of the TAM nearest Chicago, Illinois, or such other place as mutually agreed upon by the parties in writing. Proceedings may be conducted by telephone or videoconference, or as directed by the acting arbitrator(s). Venue for any such action or enforcement of any arbitration decision shall be in the state in which the arbitration occurred, or if disputed by the parties, Chicago, Illinois. Unless preempted or controlled by federal transportation law and regulations, the laws of the State of Illinois shall be controlling notwithstanding applicable conflicts of laws rules. The arbitration provisions of this paragraph shall not apply to enforcement of the award of arbitration.

ii. Subject to the time limitation set forth in Sub par i above, for disputes where the amount in controversy exceeds \$10,000, BROKER shall have the right, but not the obligation, to select litigation in order to resolve any disputes arising hereunder. In the event of litigation, the prevailing party shall be entitled to recover costs, expenses, and reasonable attorney's fees, including, but not limited to, any incurred on appeals.

iii. Subject to the time limitation set forth in Sub par i above, for disputes where the amount of controversy does not exceed \$10,000, BROKER shall have the right, but not the obligation, to select litigation in small claims court in order to resolve any disputes arising hereunder. The prevailing party shall be entitled to recover costs, expenses, and reasonable attorney's fees, including, but not limited to, any incurred on appeals.

iv. Venue, controlling law, and jurisdiction in any legal proceedings under Subps. .ii. and .iii. above shall be in the State of Illinois, Chicago.

(e) **RATE CONFIRMATION:** By acknowledging receipt of rate confirmation (via signature, email, or picking up of shipment,) the carrier agrees to adhere to all terms, conditions and requirements of Apple Express Inc.

(f) **BROKER'S ACCOUNTS:** Except as otherwise agreed to in writing by BROKER: (1) During the term of the Agreement, and for a period of 18 months following termination of this Agreement, CARRIER agrees not to solicit business from, nor perform CARRIER OR BROKER services directly or indirectly on behalf of any of BROKER'S customers first introduced to it by BROKER, or through the performance of this Agreement. However, if CARRIER conducted business with BROKER'S customers within one year prior to entering into this Agreement, then CARRIER can continue to solicit those lanes previously served. "Traffic lanes" for purposes of this Agreement shall mean origination locations to destination locations for both truckload and LTL shipments." "BROKER'S customers" for purposes of this Agreement shall mean any shipper

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consignee or other party responsible for payment, for whom BROKER provided transportation services and was billed for those services; and (2) where shipper and/or consignee BROKER customers have multiple traffic lanes, the prohibition of the paragraph is intended to apply only to those traffic lanes, for which BROKER provided transportation services as described above. The prohibitions of this paragraph are intended to be effective regardless of whether BROKER's customers are treated as confidential for any reason. If CARRIER violates the terms of this paragraph, BROKER shall be entitled to elect its damages, including but not limited to BROKER'S lost profits, CARRIER'S disgorgement of profits, or to collect/recover 20% of the gross compensation received by CARRIER from any and all such customers on all shipments that CARRIER transports for any such customer(s) during the term of the Agreement and/or the 18 month period following the date of termination. In addition to the above remedy, BROKER may seek injunctive relieve and CARRIER shall be liable for all costs and expenses incurred by BROKER, including, but not limited to, reasonable attorney's fees.

(g) **CONFIDENTIALITY:**

i. In addition to Confidential Information protected by law, statutory or otherwise, the Parties agree that all of their financial and other proprietary, confidential, or sensitive information and that of their customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements, that is shared or learned between the Parties and their customers, shall be treated as confidential, and shall not be disclosed or used for any reason without prior written consent.

ii. In the event of violation of the Confidentiality paragraph, the Parties agree that the remedy at law, including monetary damages, may be inadequate and the parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating Party from further violation of the Agreement in which case the prevailing Party shall be entitled to recover all costs and expenses incurred, including but not limited to reasonable attorney's fees.

(h) **NOTICES:** All notices provided or required by this Agreement, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax, or by email with electronic receipt.

(i) **CONTRACT TERM:** The term of this Agreement shall be one (1) year from the date hereof and thereafter it shall automatically be renewed for successive one-year periods, unless terminated, upon thirty (30) days prior written notice, with or without cause, by either Party at any time, including the initial term. In the event of termination of this Agreement for any reason, the Parties shall be obligated to complete performance of any work in progress in accordance in the terms of the Agreement.

(j) **SEVERANCE SURVIVAL:** In the event any of the terms of this Agreement are determined to be invalid or unenforceable, no other terms shall be affected and the unaffected terms shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive terminations of the Agreement for any reason.

(k) **FAX or EMAIL CONSENT:** The Parties to this Agreement are authorized to fax or email to each other at the numbers shown herein (or otherwise modified in writing from time to time) shipment availabilities, equipments and rate promotions, or any advertisements of new services.

(l) **ENTIRE AGREEMENT:** Except for Exhibit A and its amendments, and unless otherwise agreed in writing, this Agreement contains the entire agreement and understanding of the Parties and supersedes all verbal or written prior agreements, arrangements, and/or understanding of the Parties

relating to the subject matter stated herein. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence may be introduced to reform this Agreement in any judicial or arbitration proceeding involving this Agreement.

IN WITNESS WHEREOF, we have signed this Agreement the date and year first shown above.

Apple Express, Inc.
Broker

1016 W. Jackson Blvd,
Chicago, IL, 60608
Ph# (708) 493-9000
Fx# (312) 733-6170

Authorized Signature

Title

CARRIER:

Company Name

Address:

Address:

Authorized Representative PRINT

Signature

Title

Initial: _____



Re: DOT / FMCSA Safety Compliance
Dear Valued Carrier:

As a condition of contracting with **Apple Express inc**, to transport freight for its shipper customers, you are required to provide assurance of your compliance with DOT and FMCSA safety regulations included in, but not limited to, 49 C.F.R. Parts 382-396. The purpose of this letter is to specifically request your written confirmation that you are in compliance with, and will continue to operate in compliance with, all safety requirements of U.S. DOT and FMCSA during the term of your agreement with Apple Express, Inc. Under no circumstances is Carrier allowed to provide services under this contract if their safety rating falls to “unsatisfactory.”

DOT and FMCSA safety compliance includes, but is not limited to, carriers following a written safety plan which addresses the following:

- A. No drivers are currently employed or will be employed who:
 - 1. Have more than three moving violations in the past twenty-four-month period (CDL offenses count as double).
 - 2. Have been cited for causing a fatal accident.
 - 3. Have violated or violate hours of service regulations.
 - 4. Violate any qualification of driver regulations
 - 5. Have violated or violate any drug or alcohol testing regulation.
- B. Carrier compliance with:
 - 1. Inspection, repair, and maintenance file on all equipment showing compliance with Federal regulations.
 - 2. All other applicable safety fitness procedures.
 - 3. Log of port inspection reports / violations.

Thank you in advance for your attention to this matter. Apple Express inc, Carrier Relations

We, hereby certify that we are now in compliance with and, during the term of our agreement, will remain in compliance with ALL current DOT and FMCSA safety requirements. We agree to notify Apple Logistics immediately in the event of any change in our safety rating.

Company Name

Address:

Authorized Representative PRINT

Signature

Title



"

Re: HM-232 Compliance

"

Dear: Contract Carrier,

If you are an actual or potential carrier of hazardous materials, you are required to comply with DOT's Transportation Research and Special Programs Administration's (RSPA) Hazardous Materials Regulations HM-232 (49 C.F.R. Part 172). The purpose of this letter is to specifically request your written confirmation that you are in compliance with, and will continue to be in compliance with, all requirements of HM-232.

This compliance includes, but is not limited to **All Carriers of Hazardous Materials Having:**

- 1) A written security plan in place by September 25, 2003.
- 2) All Hazmat Employees trained on that plan by December 22, 2003. (A Hazmat Employee is any person under a carrier's corporate control (including any independent contractor) who performs any task covered by RSPA's Hazardous Materials Regulations).
- 3) In addition to training on the "specifics" of your security plan, general security awareness training must be provided to employees as part of a 3-year recurrent training, beginning March 25, 2003.
- 4) Compliance with all other requirements of HM-232, that may not be listed here.

As you should be aware of these regulatory requirements in advance of this request, we are asking for a prompt response to this e-mail (see response instructions below).

*Thank you in advance for your attention to this matter, Apple
Logistics, Carrier Relations*

We, hereby certify that we are now in compliance with current (HM-232) requirements and will be in **total compliance** with ALL (HM-232) requirements within the timelines specified by this regulation, or as may be amended in the future. Furthermore, we agree that any of our drivers hauling Hazmat will have the necessary Hazmat endorsement on their CDL. We agree to notify you in the event we do not become compliant or in the event of a lapse of such compliance.

Company Name: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

FAX a signed copy of this document to Apple Express, at (312) 733-6170



AFFIDAVIT OF MOTOR CARRIER WORKERS COMPENSATION &

ACKNOWLEDGEMENT AND WAIVER OF PROOF OF INSURANCE FORM

I (motor carrier) attest, warrant and acknowledge that I understand the Workers Compensation rules, regulations and laws for motor carriers domiciled in my State and as a duly authorized signatory of motor carrier, I attest, warrant and acknowledge that as a motor carrier I do not qualify and not required to carry or maintain Workers Compensation insurance. FURTHER, I AGREE TO INFORM OR NOTIFY APPLE EXPRESS INC, WITHIN (7) DAYS UPON SUCH TIMES AS I MEET THE REQUIREMENTS AND/OR MANDATED BY STATUE TO PROVIDE AND CARRY WORKERS COMPENSATION INSURANCE.

I (motor carrier) shall provide proof of insurance form, I (motor carrier) understand that this does not create a new contract with Apple Express Inc., nor a modification or amendment of any current contract.

Company Name on Authority:

DBA Name (if applicable):

Physical Address: _____ City:

_____ State: _____ Zip: _____

Mailing Address: _____ City:

_____ State: _____ Zip: _____

MC#: _____ DOT#: _ SCAC (Carrier Code): _ Federal ID#: _____

IN WITNESS WHEREOF, I as the duly authorized representative and signatory attest and affirm the above affidavit.

CARRIER'S AUTHORIZED SIGNATURE:

Printed Name: _____

Signature: _____

Title: _____ Date: _____