

ShipCarsNow
CARRIER AGREEMENT

This agreement ("Agreement") made this _____ day of _____, 20____, by and between _____, a Federally Registered Motor Carrier with MC# _____ ("CARRIER"), and ShipCarsNow, Inc. ("SCN") a Federally Registered Property Broker with MC#558293, a wholly owned subsidiary of Union Pacific Railroad Company, a Delaware corporation.

1. **CONSIDERATIONS:** SCN agrees to engage CARRIER from time to time for the purpose of transporting freight as a contract carrier. CARRIER agrees to transport such freight as requested by SCN. The terms of this Agreement shall control any shipment tendered by SCN to and accepted by CARRIER. Freight transported by CARRIER for SCN under this Agreement shall be deemed to be in the possession of CARRIER from the earlier of the time the freight is in the care, custody or control of CARRIER or is otherwise received by CARRIER from a designated location or SCN's customer until the time the freight is delivered by CARRIER to SCN's customer or SCN's designated delivery location or is delivered by CARRIER to another transportation provider as instructed by SCN. Subject to Section 10 below, SCN agrees to pay CARRIER for the transportation of freight under this Agreement at the rates agreed to in accordance with Section 1(a) below. In the absence of such agreement, the rates shall be commercially reasonable rates determined by the parties in good faith. Unless otherwise stated, **PCMiller 23** miles shall determine all mileage for truckload shipments.
 - (a) Rates and Modifications or additions to the rates shall be agreed to in a writing signed by both parties or may be made verbally to meet specific shipping schedules; provided that written confirmation of verbally agreed rates are made by E-Mail, fax or letter from CARRIER to SCN.
 - (b) All modifications and additions to the rates made either in accordance with Section 1(a) above, or as established by the billing and payment by the parties, together with the underlying freight bills shall be deemed as addendum to and considered a part of this Agreement except that no additional terms or provisions shall be included that contradict or waive terms and provisions of this Agreement unless in a writing signed by both parties.
 - (c) In the event that SCN discovers an error or problem with CARRIER's invoice and pays the invoice in a different amount, such amount shall constitute the agreed rate and the invoice shall be considered paid in full, unless CARRIER provides written notice to the contrary to SCN within sixty (60) days of its receipt of payment.
 - (d) Instructions for submitting invoices to SCN will be provided to CARRIER separately from this Agreement.
 - (e) CARRIER shall comply with SCN's claims procedure in effect from time to time as provided to CARRIER. In the absence of such procedures, claims will be filed and resolved in accordance with federal regulations codified at 49 C.F.R. Part 370.
 - (f) Except as set forth in Section 10 below, CARRIER agrees not to bill or accept payment from SCN's customers or consignee of third party for services provided under this Agreement.
 - (g) SCN is authorized to invoice SCN's customers and collect payment therefore for services provided by the CARRIER.
2. **COMPLIANCE WITH LOCAL, STATE & FEDERAL REGULATIONS:**
 - (a) CARRIER represents and warrants it is a motor carrier registered under 49 U.S.C. §13102(12) and is duly registered with the Federal Motor Carrier Safety Administration ("FMCSA") pursuant to 49 U.S.C. §13902 and §13905 with no less than a Satisfactory – Motor Carrier Safety Rating. CARRIER will maintain such a rating during the term of this Agreement and CARRIER will notify SCN in writing if such rating is revoked or not otherwise maintained.
 - (b) CARRIER shall, at its sole cost and expense, provide the necessary motor vehicle equipment for use in the services to be performed hereunder that are adequate and satisfactory to SCN and its customers and shall maintain such motor vehicle equipment in good condition. CARRIER warrants that its equipment or its subcontractor's equipment used hereunder is in good and serviceable condition and meets or exceeds Department of Transportation ("DOT") standards as set forth in C.F.R. Part 393 and is otherwise reasonably fit for its intended use, i.e., safe, clean, well maintained and in compliance with all Federal and State regulations.
 - (c) Carrier agrees that it forfeits any and all claims for compensation regarding any services Carrier performs under this Agreement if an invoice or claim for payment for such service has not been submitted in writing or electronically to SCN within one hundred eighty (180) days from the date Carrier performed services for SCN.

- (d) CARRIER agrees to provide the services hereunder in compliance with all Interstate Commerce Commission ("ICC"), FMCSA and DOT regulations and will assign tractor, driver(s) and conveyance for all SCN shipment and designated specialized services or equipment to meet the distinctive needs of SCN and its customers. Such services shall include, when applicable, but shall not be limited to: protective service, multiple stops in transit, direct dispatch, drop shipments and expedited shipments. CARRIER shall provide SCN only CDL licensed, DOT qualified drivers with proper endorsements that meet the standard set by the FMCSA in C.F.R. Part 391.
 - (e) CARRIER will be responsible to comply with all applicable ICC, FMCSA and DOT regulations as well as all other federal or state regulations pertaining to the operations of a motor carrier.
 - (f) CARRIER shall also, at its sole cost and expense, provide fully qualified individuals to operate such equipment, shall procure and maintain such licenses, permits and operating authorities as required by local, state or federal authorities to enable it to lawfully serve SCN and its customers as a motor carrier pursuant to this Agreement, and shall comply with all laws and regulations applicable thereto.
 - (g) CARRIER has authority from the Federal Highway Administration to operate as a contract CARRIER and will maintain this authority and insurance for the protection of freight/lading as set forth in Exhibit A hereto attached.
 - (h) SCN reserves the right to withdraw any shipment tendered to a CARRIER if not picked up by SCN's required pick-up date. No dry-run charges will apply.
3. **RE-BROKERING OF SCN SHIPMENTS:** Except as otherwise set forth in this Section 3, all freight tendered to CARRIER by SCN or its customers shall be transported on equipment operated only under the authority of CARRIER. CARRIER shall not broker, re-broker, re-assign, forward, relay or otherwise transfer in any way, SCN or its customer's loads or shipments to other companies; provided, however, that CARRIER may subcontract SCN or its customer's loads or shipments to a federally registered motor carrier; provided further that (a) such motor carrier complies with the terms of Section 2 above (b) CARRIER ensures that such subcontractor maintains insurance for the protection of freight/lading in accordance with industry practices and includes the CARRIER as an additional insured and (c) such motor carrier does not broker, re-broker, re-assign, forward, relay or otherwise transfer in any way such loads or shipments to other companies. The CARRIER assumes full responsibility and liability for the performance and operations of its subcontractors and for adherence to all terms and provisions of this Agreement and agrees to indemnify SCN for any losses or damages it incurs that arise there from.
4. **TRANSPORTATION EVENT AND DELIVERY REPORTING:** To facilitate customer shipment tracking, CARRIER shall report shipment events to SCN or its designated agent in an electronic format prescribed by SCN or through other process approved by SCN. The parties hereto agree that data timeliness is critical to effective asset utilization, customer service, operations and administration. As a condition of payment and doing business with SCN, CARRIER shall report to SCN or SCN's designated agent on a timely basis. Reported events shall include at a minimum:
- (a) Confirmation of load pick-up, location, date and time
 - (b) Delivery to consignee or designated delivery party, location, date and time
 - (c) Proof of delivery (POD)
 - (d) Inspection report prior to receipt of freight with any exceptions noted
 - (e) Other events or data as required or amended from time to time
5. **LIABILITY FOR FREIGHT LOSS, THEFT & DAMAGE:** Liability for claims for theft, loss, damage, delay, or detention to freight occurring while freight is in the possession of CARRIER, as defined above, shall be assumed by CARRIER.
- (a) CARRIER is required to provide SCN with a copy of the proof of delivery ("POD") receipt as referenced in item 3(c) of this Agreement. The POD must be signed by the consignee or party receiving the freight and any exceptions for freight damages or missing items noted. Carrier will retain copies of the POD for each SCN shipment for a period of three (3) years.
 - (b) CARRIER shall arrange for suitable inspection of freight upon arrival at destination, and in the event of discovery of loss, or damage to freight, CARRIER shall immediately notify SCN in writing or email within one business day of such arrival as to such loss or damage.
 - (c) SCN's customer claims shall be received and processed initially by SCN with subsequent final settlement to be made between SCN and CARRIER with CARRIER reimbursing SCN for CARRIER'S share of any such claim.
 - (d) CARRIER shall assume liability for claims for concealed loss and damage on the basis that the highway mileage of the movement by CARRIER bears to the total mileage over which the shipment involved moved from origin to destination.

- (e) CARRIER shall assist SCN and the Corporation in defense of claims or suits for theft, loss, damage, delay or detention that accrued to a shipment handled by CARRIER under terms of this Agreement.
 - (f) In all cases, the CARRIER is expected to act in good faith to resolve all claims within 60 days of notification to SCN or its designated agent.
 - (g) If CARRIER fails to resolve a freight damage claim within 60 days of notification, SCN may, at its sole discretion, elect to withhold the disputed amount plus a 15% surcharge from any payment owed to CARRIER for any shipment. No settlements are to be made by the CARRIER to SCN's customers, without the prior written consent of SCN.
6. **INDEMNITY: THIRD-PARTY LIABILITY:** To the extent not prohibited by applicable statute, CARRIER shall indemnify, defend and hold harmless SCN and the Corporation and their affiliates, officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, CARRIER, or any employee of CARRIER or of any Indemnified Party) arising out of or in any manner connected with the services performed for SCN or its customers under terms of this Agreement; or any act or omission of CARRIER, its officers, agents, employees or subcontractors; or any breach of this Agreement by CARRIER.
- (a) The right to indemnification under this Section 6 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.
 - (b) CARRIER expressly and specifically assumes potential liability under this Section 6 for claims or actions brought by CARRIER's own employees. CARRIER waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify SCN under this Section 6. CARRIER acknowledges that this waiver was mutually negotiated by the parties hereto.
 - (c) No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by CARRIER in any attempt to assert liability against SCN, INL or the Corporation.
 - (d) The provisions of this Section 6 shall survive the completion of the termination or expiration of this Agreement. In no event shall this Section 6 or any other provision of this Agreement be deemed to limit any liability CARRIER may have to any Indemnified Party by statute or under common law.
 - (e) The party against which a demand for indemnification is made under this Agreement (the "Indemnifying Party") shall have the right to control the settlement and defense of all claims and demands and shall have the exclusive right to select counsel to defend against any such matter; provided that such Indemnifying Party notifies the party making demand (the "Indemnified Party") in writing within 15 days after such demand that the Indemnifying Party will indemnify the Indemnified Party from and against any and all Loss associated therewith and provides the Indemnified Party with evidence reasonably acceptable to such party that the Indemnifying Party will have the financial resources to defend and fulfill its indemnification obligations hereunder. The Indemnifying Party will not consent to the entry of any judgment or enter into any settlement regarding the aforesaid Loss without the prior written consent of the party making the demand.
7. **INSURANCE REQUIREMENTS:** CARRIER agrees to obtain at its sole cost and expense (including, without limitation, the cost of all deductibles), and to keep in force during the life of this Agreement insurance coverage set forth in Exhibit A hereto attached and hereby made a part hereof (the "Insurance Policies"). Prior to commencing work (and at any time thereafter at the request of SCN) CONTRACTOR shall have its insurance agent **send to** SCN the certificate(s) of insurance referred to in Exhibit A hereto attached to **Union Pacific/ShipCarsNow, Insurance Compliance, P.O. Box 12010 – UP, Hemet, California, USA 92546.**
8. **MARKETING:** CARRIER agrees to support and protect SCN's efforts in performance of this Agreement by refraining from any direct or indirect contact or solicitation of SCN's customers except where CARRIER can provide evidence of a business relationship with such customer that existed prior to the effective date of this Agreement. CARRIER acknowledges that solicitation of SCN's customers will be considered a breach of this Agreement and may result in immediate cancellation of this Agreement at SCN's sole discretion.

9. **INDEPENDENT CONTRACTOR STATUS:** It is the intention and agreement of the parties that CARRIER and its employees, agents and subcontractors will be and shall remain independent contractor(s) with its or their own employees and subcontractors and shall not be considered employees of SCN, and all provisions of this Agreement will be interpreted in accordance with that intent and agreement. Provided however, SCN shall be the exclusive agent for CARRIER for the collection and payment of charges due to the CARRIER as a result of services provided by CARRIER to SCN.
- (a) CARRIER shall pay in full all persons who perform labor upon or provide materials in connection with the work to be performed by CARRIER.
 - (b) CARRIER shall not create, permit or suffer any mechanic's or material men's liens of any kind or nature to be created or enforced against any real or personal property of SCN or SCN's customers. CARRIER shall not withhold any goods of SCN or SCN's customers on account of any dispute as to rates or any alleged failure of general credit of SCN and hereby waives and releases all liens that CARRIER might otherwise have to any goods of SCN or SCN's customers in the possession or control of CARRIER.
 - (c) CARRIER shall indemnify and hold SCN and SCN's customers harmless from and against any and all liens, claims, demands, costs or expenses or whatsoever nature in any way connected with or growing out of such services done, labor performed, or materials furnished by CARRIER.
10. **THIRD-PARTY DEFAULT:** CARRIER acknowledges that SCN is acting as a licensed property broker, identifying and presenting business opportunities for CARRIER to provide freight transportation services. If, after CARRIER's provision of services hereunder, SCN's customer (i.e., the third party) ultimately responsible for the applicable freight charges does not pay them, (a) SCN may suspend payments to CARRIER in an amount equal to the outstanding freight charges, and (b) CARRIER at its sole cost and expense may proceed against SCN's customer for the amount outstanding.
11. **SEVERABILITY:** Obligations of this Agreement are separate and divisible and in the event that any clause is deemed unenforceable, the balance of the Agreement shall continue in full force and effect.
12. **CONFIDENTIAL TERMS:** CARRIER agrees that SCN's compensation hereunder for its services is confidential and need not be disclosed to CARRIER. CARRIER further agrees that it will not reveal to anyone the terms of this Agreement, the pricing of transportation service, or any other details of the business conducted between CARRIER and SCN.
13. **INTELLECTUAL PROPERTY, TRADEMARKS AND COPYRIGHTS:** SCN hereby asserts that its database functions and software code, its system, services and methods of business are proprietary and confidential, and to the extent applicable, hereby claims and asserts rights of trademark and copyright over its database functions, and software code, its systems, services and methods of business. CARRIER agrees not to disclose, discuss, publish or duplicate SCN's proprietary intellectual property and methods, except that which is readily available and generally known to the public. CARRIER agrees to not attempt to discover SCN proprietary software code or functionality (no hacking) and agrees to in no way attempt to disrupt the function or operation of SCN's systems and/or services.
14. **ASSIGNMENT:** This Agreement may not be assigned, in whole or in part, by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that SCN reserves the right to assign the Agreement to a subsidiary of SCN or other subsidiary of the Corporation.
15. **GOVERNING LAW:** This Agreement is binding upon the parties hereto, their successors, and assigns, and shall be construed under the laws of the State of Nebraska without giving effect to any choice or conflict of law provision or rule (whether of the State of Nebraska or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Nebraska.
16. **TERM:** This Agreement shall be deemed to be effective on the first date that CARRIER and SCN commenced business together and the parties agree that the provisions contained herein properly express and memorialize the complete understanding of the parties as contained in all prior agreements, both verbal or in writing. This Agreement shall be effective continuously subject to the right of either party hereto to cancel the Agreement at any time upon not less than thirty (30) days written notice from one party to the other.

17. **NOTICES:** Any notice required or permitted to be given under this Agreement, unless otherwise indicated, shall be deemed sufficiently given if it is delivered by hand to the individual noted in the signatory below or sent by prepaid mail, registered or certified, return receipt requested, by a nationally recognized overnight courier, or facsimile or e-mail (providing for electronic confirmation of receipt) transmission if sent to the address, facsimile number or e-mail address and to the attention of the individual and office noted in the signatory below.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names by their fully-authorized representatives as of the date first above written.

_____	ShipCarsNow, Inc.
BY: _____	BY: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____
ADDRESS: _____	ADDRESS: 1400 Douglas St, Stop 0430
_____	Omaha, NE 68179
FAX NO. _____	FAX NO.: (402) 997-3495
E-MAIL: _____	E-MAIL: _____
PHONE NO: _____	PHONE NO: (866) 207-3360

EXHIBIT A

ShipCarsNow Motor Carrier Insurance Requirements

The fact that insurance is obtained by CARRIER or by SHIPCARSNOW (SCN) on behalf of CARRIER will not be deemed to release or diminish the liability of CARRIER, including, without limitation, liability under the indemnity provisions of this Agreement. CARRIER further warrants that it will maintain the following or greater insurance coverage:

1. **Commercial General Liability.** Commercial general liability ("CGL") with a limit of not less than \$1,000,000 each occurrence and an aggregate limit of not less than \$1,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).
2. **Business Automobile Coverage.** Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$1,000,000 for each accident.
 - (a) Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.
3. **Workers Compensation and Employers Liability.** Coverage must include but not be limited to:
 - (a) Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
 - (b) Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit, \$500,000 each employee.
 - (c) If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.
4. **Motor Truck Cargo.** Motor Truck Cargo Legal Liability coverage must be written on AAIS Form IM 7450 04 04 (or a substitute form providing equivalent liability coverage). Limits of insurance must be equal to the greater of the replacement cost of the freight being transported or \$250,000 any one occurrence in addition to cargo insurance required by applicable State or Federal laws and must cover all risk of loss and damage to property of others in Contractor's care, custody, and control. Freight insurance shall be in the form required by 49 C.F.R. 1043.2(b), and shall have no exclusions or restrictions that would not be accepted by the FMCSA for filing under statutory requirements. Certain high value accounts may require a higher level of insurance. To meet the added valuation of specific shipments the amount of freight insurance required may be increased by written notification to CARRIER from SCN. SCN will provide written notification of such accounts to CARRIER.

ADDITIONAL REQUIREMENTS

5. **Umbrella or Excess Insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
6. **SCN Endorsement** - All policies required above (except worker's compensation and employers liability) must include "ShipCarsNow, Inc.", as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to SCN as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for SCN's negligence whether sole or partial, active or passive, and shall not be limited by CARRIER's liability under the indemnity provisions of this Agreement.
 - (a) Prior to commencing the work, (and at any time thereafter at the request of SCN) CONTRACTOR shall have its insurance agent send to SCN the a certificate(s) of insurance referred to in Exhibit A, hereto attached to Union Pacific/ShipCarsNow, Insurance Compliance, P.O. Box 12010 – UP, Hemet, California, USA 92546-8010.
 - (b) Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
 - (c) All Insurance Policies shall be endorsed to waive all rights of subrogation against SCN.

- (d) Each certificate of insurance shall provide that SCN shall be given 30 days advance written notice from the insurance company of any cancellation or modification of the coverage under the Insurance Policies.
- 7. **Workers Compensation** - CARRIER waives all rights against SCN and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability, builder's risk, pollution liability, and boiler and machinery. This waiver must be stated on the certificate of insurance.
- 8. **Qualified Insurer** - All insurance policies must be written by a reputable insurance company acceptable to SCN with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.



EXHIBIT B

ShipCarsNow Payment Terms and Invoice Requirements

All invoices should contain the following information:

Invoice Number
Company Tax ID Number
Name and Address to remit payment to
A contact name and phone number
Date of delivery
Address of Delivery
Full 17-digit VIN (vehicle identification number)
Cost per VIN
Total Cost for invoice
Proof of delivery receipt for each vehicle delivered (must be signed by consignee or party receiving the freight and any damage noted) POD's may not be required for payment in all instances, but should be available on demand within 7 days of delivery date as verification of delivery.

Submit Invoices to:

ShipCarsNow
Attn: Accounts Payable
1400 Douglas Street
Mail Stop 0430
Omaha, NE 68179
Phone: 866-207-3360, Option 4
Fax: 402-997-3685

Terms: Payment terms will be net 30 days upon receipt of both invoice and proof of delivery. (POD as required)

Messaging Requirements:

It is a ShipCarsNow requirement that all Carriers have the capability of sending and receiving electronic messages (ref: Carrier Agreement item #4). All testing must be complete prior to hauling vehicles on behalf of SCN.

For EDI message formats on the services you will be providing SCN, please contact a member of SCN's Supply Chain Visibility team 866-207-3360, Option 3.