

## BROKER-CONTRACT CARRIER AGREEMENT

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between Infiniti Logistics, Inc., of Olathe, KS (**BROKER**), and \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ (**CARRIER**).

**WHEREAS, BROKER** has been issued a license by the Interstate Commerce Commission (ICC) at Docket No. MC-628915 to engage in operations as a property **BROKER** of general commodities (except household goods), between points in the United States.

**BROKER** is now subject to the jurisdiction of the Federal Motor **CARRIER** Safety Administration (FMCSA) in connection with the authority issued by the ICC; and

**WHEREAS, CARRIER** has been issued a Permit by the ICC and/or the FMCSA to engage in operations as a motor contract **CARRIER** of general commodities, with certain exceptions, between points in the United States; and

**WHEREAS, BROKER** desires to avail itself of **CARRIER**'s motor **CARRIER** service, and **CARRIER** desires to furnish motor **CARRIER** service to the **BROKER**;

**NOW THEREFORE**, in consideration of the mutual covenants and promises herein contained, the parties hereto, intending to be legally bound hereby, agree, represent and warrant as follows:

1. **BROKER** will tender to **CARRIER** for transportation within the scope of the operating authority granted by the ICC and/or FMCSA a series of shipments consisting of not less than one (1) shipments of freight per year during the term of this Agreement.
2. **CARRIER** agrees to accept for transportation and to transport such freight as **BROKER** shall, pursuant to the terms of this Agreement and within the capabilities and legal rights of the **CARRIER**, call upon **CARRIER** to transport.
3. In the event of any accident or delay in transit which will interfere with prompt delivery or impair the safety or condition of the commodities tendered to **CARRIER** for transportation hereunder, **CARRIER** shall promptly notify **BROKER** by telephone of said accident or delay and take all necessary steps to protect and preserve the shipment.
4. **CARRIER** shall provide **BROKER** with invoices and proof of delivery for service rendered promptly upon the performance of such services, and **BROKER** shall make payment to **CARRIER** within twenty-one (21) days of receipt of such invoices and proof of delivery.

The parties agree that the rate for each shipment will be negotiated for that shipment. After a rate is agreed to, **BROKER** shall execute and fax to **CARRIER** a rate confirmation sheet, which will specifically identify the shipment. **CARRIER** shall execute and return the rate confirmation sheet to **BROKER**. In the event the **CARRIER** fails to return the executed rate confirmation sheet to **BROKER**, **CARRIER**'s acceptance of the shipment shall constitute its acceptance of the terms set forth on the rate confirmation sheet. These rate confirmation sheets shall be an accepted amendment to this Agreement.

5. Each incident of transportation of property pursuant to the terms and conditions of this Agreement shall be evidenced by a written receipt signed by **CARRIER**, shipper and receiver, showing the kind and quantities of freight received and delivered by **CARRIER** at the loading and unloading points, respectively. Such receipt shall be evidence of receipt of such commodities by **CARRIER** in good order and condition unless such commodities are not readily observable or as may be otherwise noted on the face of such receipt. To the extent any term or condition of such receipt conflicts in any way with any term or condition of this Agreement, this Agreement shall take precedence and control the resolution of disputes.

6. **BROKER**, unless otherwise agreed upon in writing by the parties, shall have the sole responsibility to invoice the shipper or receiver for all charges, and to collect such charges from the shipper or receiver. Payment of the freight charges to **BROKER** shall relieve shipper or receiver of any liability to the **CARRIER** for non-payment of charges.

7. **CARRIER**, at its cost and expense, shall provide motor vehicle equipment for use in the services to be performed hereunder which is adequate and satisfactory to the **BROKER** and shall maintain such equipment in good and efficient condition. **CARRIER**, at its cost and expense, shall employ competent, reliable and physically fit drivers, and shall procure and maintain such licenses and permits as are required by local, state and federal authorities with respect to such transportation services, and will comply with all federal, state and municipal rules, regulations, statutes and ordinances in connection with the rendition of the services contemplated herein.

8. **CARRIER** shall be liable for full actual loss resulting from loss, damage, injury or delay on shipments transported under the terms of this agreement. Full actual loss is the replacement cost of freight tendered to the **CARRIER** for transport. All claims for loss and damage shall be handled and processed in accordance with regulations published in the Code of Federal Regulations at 49 CFR Part 370. In the event **CARRIER** does not reimburse the **BROKER** or the owner of property, the **BROKER** may deduct the amounts in question from any sums then or thereafter due the **CARRIER** from **BROKER**. The terms, conditions or provisions of the governing bill of lading or any other shipping form, tariff or rule utilized shall be subject and subordinate to the terms of this agreement and, in the event of a conflict, this agreement shall govern. This contract cannot be changed, modified, limited or supplemented by reference to any **CARRIER** rates, rules, classification, practice, schedule or tariff.

9. **CARRIER** is an independent contractor and has exclusive control and direction of the persons operating vehicles or otherwise engaged in such transportation services. **CARRIER** assumes full responsibility for the payment of local, state, federal and payroll taxes, unemployment insurance contributions or taxes, old age pensions, worker's compensation, or other social security and related protection with respect to the persons engaged in the performance of such transportation services, and agrees to comply with applicable rules and regulations promulgated under such laws.

10. **CARRIER** shall indemnify and hold harmless the **BROKER**, and its shippers and receivers, from all losses, damages, expenses, actions, suits, liabilities, and claims for injury to persons (including injury resulting in death) and damage to property or cargo arising out of or in connection with the transportation of the property or cargo transported pursuant to this Agreement. **CARRIER**, at its expense, shall procure and maintain liability insurance insuring **CARRIER** against liability for injury to persons (including injury resulting in death), damage to property, and loss of or damage to cargo. **CARRIER** warrants that it has liability insurance in effect of at least \$750,000 as specified by the Interstate Commerce Commission. **CARRIER** further warrants that it has cargo insurance in effect in the minimum amount of \$100,000 and that it will maintain such liability and cargo insurance during the term of this agreement. The proof of cargo insurance shall be in the form required by 49 CFR 1043.2(b) and shall contain no exclusions or restrictions thereto. **CARRIER** shall name **BROKER** as an additional insured on such insurance policies. **CARRIER** shall furnish the **BROKER** written certificates obtained from such insurance **CARRIER** or **CARRIERS** showing that such insurance has been procured and is being properly maintained, and that the premiums therefor are paid, and specifying the name of the insurance **CARRIER** or **CARRIERS**, the policy number or numbers, and expiration date or dates. Certificate shall show **BROKER** as Certificate Holder. **CARRIER** or his insurance company must notify the **BROKER** in the event of cancellation of any such policies at least ten (10) days prior to such cancellation as to each policy.

This Agreement provides for transportation services designed to meet the distinct needs of the **BROKER**, which, as an independent contractor serves shipper and receiver customers on a continuing basis. The distinct needs include specialized equipment, short notice driver/equipment availability, driver loading/unloading requirements, timed loading/delivery scheduling, detention, overnight and weekend layover, protective service, stops in transit, direct driver dispatch, 24 hour dispatch and driver monitor, route instruction, scale requirements, drop shipments, internal deliveries, weekend/holiday shipments and deliveries, pooling and spotting trailers and expedited service.

11. This agreement shall not be assigned or transferred by **CARRIER** or **BROKER** without the prior written consent of the other party.

12. **CARRIER** agrees that it will not, directly or indirectly, contact, communicate with or deal with any account referred to it by **BROKER** for a period of one year following the date of initial referral or the date service is last performed for such account under the terms of this Agreement, whichever is later. The parties agree that the provisions of this paragraph are intended to prohibit the **CARRIER** from back soliciting any of the **BROKER**'s accounts. In the event the **CARRIER** breaches this provision, **CARRIER** shall be liable to **BROKER** for a commission in the amount of twenty percent (20%) of the gross revenue per load on any freight so transported by **CARRIER** for any of **BROKER**'s accounts, together with interest at the rate of ten percent (10%) a year, and costs and reasonable attorney's fees in the event legal proceedings are necessary to collect said amounts. This commission is payable during the period in which the Agreement remains in force and for a period of one year after the termination of this Agreement by either party. The provisions of this paragraph shall be applicable to **CARRIER** and its officers, directors, shareholders, employees, agents, drivers, owner-operators, subsidiaries and affiliates.

13. **CARRIER** shall be liable for any damages resulting from the failure of **CARRIER** to make timely delivery where **CARRIER** has been advised of the specific delivery time required and through its negligence or the negligence of its agents or employees fails to make timely delivery and **CARRIER** agrees to indemnify and hold harmless **BROKER** from any losses, damages, expenses, liabilities and claims resulting from the failure of the **CARRIER** to make timely delivery.

14. Any notices, demands or other communications delivered or tendered under this Agreement shall be in writing and shall be sufficient if sent by registered or certified mail with return receipt requested to the parties at the addresses set forth in this Agreement.

15. This Agreement shall become effective on the date hereof and shall continue in effect until terminated by either party by mailing or delivering to the other party written notice of termination at least thirty (30) days prior to the effective date of termination, except that the Agreement can be terminated by **BROKER** on one (1) day's notice if the **CARRIER** violates any term of this Agreement.

16. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest, assigns and legal representatives.

17. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kansas and the parties agree that they are subject to the jurisdiction of the courts of the Commonwealth of Kansas and the County of Johnson.

18. This Agreement cannot be changed orally and constitutes the entire Agreement between the parties hereto. This Agreement cancels or replaces any other agreement or arrangements heretofore in existence between the same parties. It shall not be modified or changed by any expressed or implied promises, warranties, guarantees, representations or other information unless expressly and specifically set forth in this Agreement or an addendum thereto properly executed by the parties, except as otherwise specified in this Agreement.

**IN WITNESS WHEREOF**, the parties hereto, intending be legally bound hereby, have executed this Agreement the day and year first above stated.

**BROKER: CARRIER:**

Infiniti Logistics, Inc.  
P.O. Box 3204  
Olathe, KS 66063

BY: \_\_\_\_\_

Dave Gibbons, President

Carrier Name \_\_\_\_\_

Name/Title \_\_\_\_\_

Date \_\_\_\_\_





**Thank You for becoming a preferred carrier for Infiniti Logistics, Inc.!!**

**What we need from you:**

**Common/Contract Authority  
Copy of W-9  
DOT safety rating letter  
Insurance certificate showing Infiniti Logistics, Inc. as a certificate holder  
Signed copy of broker – carrier agreement  
Payment terms  
Accessorial agreement**

**NO CARRIERS WILL BE DISPATCHED UNTIL ALL ITEMS ARE RETURNED COMPLETED!!**

**All invoices must include a signed BOL and mailed to:**

**Infiniti Logistics, Inc.  
P.O. Box 3204  
Olathe, KS 66063**

**Toll Free#877-324-4109  
Local#913-324-4100  
Fax#913-324-4104**

**Our Packet can also be viewed and downloaded at [www.infinitilogistics.com](http://www.infinitilogistics.com)**

**Thanks again and we look forward to doing business with your company!!**

**President: Dave Gibbons  
Rates & Dispatch: Stacy Young**

**[dave@infinitilogistics.com](mailto:dave@infinitilogistics.com)  
[stacy@infinitilogistics.com](mailto:stacy@infinitilogistics.com)**



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Form BMC-85

Approved by OMB  
2126-0017  
Expires: 02/28/2009  
License No.  
MC-628915

FILER FMCSA  
ACCOUNT NO. 24886

PROPERTY BROKERS TRUST FUND AGREEMENT UNDER 49 U.S.C. 13906  
OR NOTICE OF CANCELLATION OF THE AGREEMENT

KNOWN ALL MEN BY THESE PRESENTS, that we INFINITI LOGISTICS, INC.

(Broker)

of 15218 WEST 156<sup>TH</sup> COURT

(Street)

OLATHE

(City)

KS

(State)

66026

(Zip code)

as TRUSTOR (hereinafter called Trustor), and 1<sup>ST</sup> Security Financial Corporation

(Name of Trustee)

a financial institution created and existing under the laws of the State of Ohio

(State or District of Columbia)

as TRUSTEE (hereinafter called Trustee) hold and firmly bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents,

WHEREAS, the Trustor is or intends to become a Broker pursuant to the provisions of the Title 49 U.S.C. 13904, and the rules and regulations of the Federal Motor Carrier Safety Administration relating to insurance or other security for the protection of motor earners and shippers, and has elected to file with the Federal Motor Carrier Safety Administration such a Trust Fund Agreement as will ensure financial responsibility and the supplying of transportation subject to the ICC Termination Act of 1995 in accordance with contracts, agreements, or arrangements therefor, and

WHEREAS, this Trust Fund Agreement is written to assure compliance by the Trustor as a licensed Property Broker of Transportation by motor vehicle with 49 U. S. C 13906(b), and the rules and regulations of the Federal Motor Carrier Safety Administration, relating to insurance or other security for the protection of motor carriers or shippers, and shall inure to the benefit of any and all motor carriers or shippers to whom the Trustor may be legally liable for any of the damages herein described.

NOW, THEREFORE, the trustor and trustee, to accomplish the above, agree as follows:

- Trustee agrees that payments made pursuant to the security provided herein to shippers and motor carriers pursuant to this Agreement will be made exclusively and directly to shippers or motor carriers that are parties to contracts, agreements or arrangements with Trustor.
- Trustee agrees that the protection afforded to shippers and motor carriers hereby will continue until any and all claims made by shippers or motor carriers for which Trustor may be legally liable have been settled or until the funds deposited by Trustor pursuant to this Agreement have been exhausted, whichever comes first.
- The parties hereto acknowledge and certify that said Trustee shall exclusively manage the security and trust fund, as herein set forth, and shall have legal title to the security and trust fund, pursuant to the terms and conditions as set forth in this agreement. Further, the parties hereto, and the said Trustee, as evidenced by their signatures to this agreement, acknowledge and certify that (a) said Trustee, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustor; and (b) said Trustor, neither has nor expects to have any interest, financial, proprietary, or otherwise, whatsoever, in Trustee.
- Trustee acknowledges the receipt of the sum of Ten Thousand Dollars (\$10,000.00), to be held in trust under the terms and conditions set forth herein.
- Trustee may, within its sole discretion, invest the funds comprising the corpus of this trust fund consistent with its fiduciary obligation under applicable law.
- Trustee shall pay, up to a limit of Ten Thousand Dollars (\$10,000.00), directly to a shipper or motor carrier any sum or sums which Trustee, in good faith, determines that the Trustor has failed to pay and would be held legally liable by reason of Trustor's failure to perform faithfully its contracts, agreements, or arrangements for transportation by authorized motor carriers, made by Trustor while this agreement is in effect, regardless of the financial responsibility or lack thereof, or the solvency or bankruptcy, of Trustor.
- In the event that the trust fund is drawn upon and the corpus of the trust fund is a sum less than Ten Thousand Dollars (\$10,000.00), Trustor shall, within thirty (30) days, replenish the trust fund up to Ten Thousand Dollars (\$10,000.00) by paying to the Trustee a sum equal to the difference between the existing corpus of the trust fund and Ten Thousand Dollars (\$10,000.00).
- Trustee shall immediately give written notice to the FMCSA of all lawsuits filed, judgments rendered, and payments made under this trust agreement and of any failure by Trustor to replenish the trust fund as required herein.

9. This agreement may be canceled at any time upon thirty, (30) days written notice by the Trustee or Trustor or the FMCSA on the form printed at the bottom of this agreement. The thirty, (30) day notice period shall commence upon actual receipt of a copy of the trust fund agreement with the completed notice of cancellation at the FMCSA's Washington, DC office. The Trustee and/or Trustor specifically agree to file such written notice of cancellation.

10. All sums due the Trustee as a result, directly or indirectly, of the administration of the trust fund under this agreement shall be billed directly to Trustor and in no event shall said sums be paid from the corpus of the trust fund herein established.

11. Trustee shall maintain a record of all financial transactions concerning the Fund, which will be available to Trustor upon request and reasonable notice and to the FMCSA upon request.

12. This agreement shall be governed by the laws in the State of Ohio, to the extent not inconsistent with the rules and regulations of the FMCSA.

This trust fund agreement is effective the 26<sup>th</sup> day of December 2007 12: 01 am, standard time at the address of the Trustor as stated herein and shall continue in force until terminated as herein provided.

Trustee shall not be liable for payments of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements made by the Trustor for the supplying of transportation after the cancellation of this Agreement, as herein provided, but such cancellation shall not affect the liability of the Trustee for the payment of any such damages arising as the result of contracts, agreements, or arrangements made by the Trustor for the supplying of transportation prior to the date such cancellation becomes effective.

IN WITNESS WHEREOF, the said Trustor and Trustee have executed this instrument on the 26<sup>th</sup> day of December 2007

TRUSTOR

TRUSTEE

Name INFINITI LOGISTICS, INC.

Name 1<sup>ST</sup> SECURITY FINANCIAL CORPORATION

Address 15218 WEST 156<sup>TH</sup> COURT  
OLATHE KS 66026

Address 3929 Noe Bixby Road  
Columbus, OH 43232

Telephone No. 913-980-2112

Telephone No. 614-831-8141

By David W. Gibbons  
DAVID W. GIBBONS, PRESIDENT

G. Brice Parks  
G. BRICE PARKS, PRESIDENT

Witness Ashley Buskelly

Witness Amiee Stunkel

Only financial institutions may qualify to act as Trustee. Trustee, by the above signature, certifies that it is a financial institution and has legal authority to assume the obligations of Trustee and the financial ability to discharge them.

NOTICE OF CANCELLATION

THIS IS TO ADVISE THAT THE ABOVE BROKER TRUST FUND AGREEMENT EXECUTED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ IS HEREBY CANCELED AS SECURITY IN COMPLIANCE WITH THE FMCSA SECURITY REQUIREMENTS UNDER 49 U.S.C. 13906(b) and 49 CFR 387.307, EFFECTIVE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE TRUSTOR, PROVIDED SUCH DATE IS NOT LESS THAN THIRTY (30) DAYS AFTER THE ACTUAL RECEIPT OF THIS NOTICE BY THE FMCSA.

\_\_\_\_\_  
DATE SIGNED

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE OF TRUSTEE OR TRUSTOR



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

1200 New Jersey Ave., S.E.  
Washington, DC 20590

**SERVICE DATE**  
December 31, 2007

**LICENSE**  
**MC-628915-B**  
INFINITI LOGISTICS, INC  
OLATHE, KS

This License is evidence of the applicant's authority to engage in operations, in interstate or foreign commerce, as a **broker, arranging for transportation of freight (except household goods)** by motor vehicle.

This authority will be effective as long as the broker maintains insurance coverage for the protection of the public (49 CFR 387) and the designation of agents upon whom process may be served (49 CFR 366). The applicant shall also render reasonably continuous and adequate service to the public. Failure to maintain compliance will constitute sufficient grounds for revocation of this authority.

A handwritten signature in blue ink that reads "Kathy A. Weiner".

Kathy Weiner, Chief  
Information Systems Division

BPO