

**STATE OF NEW JERSEY
MOTOR VEHICLE COMMISSION**

MOTOR CARRIER AGREEMENT

WITH

_____ COMPANY

**(A provider authorized by the New Jersey Motor Vehicle Commission to issue Trip Permits or
Temporary Authorities)**



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THIS AGREEMENT, effective this ____ day of _____ 20__, by and between the New Jersey Motor Vehicle Commission, located at 225 East State Street, Trenton, New Jersey 08666 (hereinafter referred to as the “NJMVC”), and _____ COMPANY (a provider approved by the NJMVC to issue Trip Permits or Temporary Authorities), located at _____, City of _____, State of _____, zip code ____-____ (hereinafter referred to as “PROGRAM PROVIDER_____”), sometimes collectively referred to herein as “the Parties”):

WHEREAS, the NJMVC issues Trip Permits (TP) for the International Fuel Tax Agreement (IFTA) and Temporary Authorities (TA) for the International Registration Plan (IRP) to allow a specifically-identified commercial vehicle to conduct business in New Jersey for a limited period of time that is measured in hourly increments; and

WHEREAS, the NJMVC has instituted an “IFTA Trip Permit and IRP Temporary Authority Program” (hereinafter referred to as “Program”) to improve operational efficiency and customer service by permitting centralized private entities to provide a method of issuing TPs and TAs; and

WHEREAS, the purpose of the Program is for NJMVC to provide a TP and TA template, as well as a block of 10 TP permit numbers and 10 TA permit numbers to properly designated Program Providers applying to the NJMVC, who may then fully and properly complete and issue a TP or TA to a specifically-identified commercial vehicle for purposes that fully comply with the requirements of the Program; and

WHEREAS, pursuant to the Program, the NJMVC is designating the Program Provider as a provider of NJMVC Trip Permits or Temporary Authorities and granting the Program Provider limited nonexclusive permission to fully and properly complete and issue a TP or TA consistent with the IFTA statute at N.J.S.A. 54:39A-24, IFTA TP regulations at N.J.A.C. 13:18-3.5, and IRP TP regulations at N.J.A.C. 13:18-2.12 and 2.13; and

WHEREAS, the NJMVC has determined, based upon submittals provided by the Program Provider, that the Program Provider is qualified to perform the required services in the manner and on the terms and conditions set forth herein; and

WHEREAS, the Chairman and Chief Administrator of the NJMVC has determined that it is in the public’s best interest to designate _____COMPANY as a Program Provider under the Program; and

WHEREAS, The Program Provider desires to accept said designation and to perform said duties in accordance with Titles 39 and 54 of the New Jersey statutes, all applicable rules, regulations, instructions and performance standards.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth and other good and valued consideration, the Parties hereby agree to the terms and conditions included in the Program Agreement as set forth below:

1.0 DEFINITIONS

The following terms used throughout this IFTA Trip Permit and IRP Temporary Authority Program Agreement (“Agreement”) shall have the following meaning:

Block – Refers to TP permit numbers or a block of up to 10 TA permit numbers issued to approved Program Providers, who may then fully and properly complete and, utilizing the NJMVC issued TP or TA template, issue a TP or TA to a specifically identified commercial vehicle for purposes that fully comply with the requirements of the Program.

Controlled Inventory – A blank TP template(s) or a blank TA template(s) created, regulated, verified and supplied by the NJMVC to the Program Provider.

IFTA Trip Permit and IRP Temporary Authority Program – The Program instituted by the NJMVC to improve operational efficiency and customer service by expanding the availability of attaining NJMVC TPs and TAs through multiple, permitting private entities and approved Program Providers.

Motor Vehicle Record – Any document or record that pertains to a motor vehicle operator’s permit, driver’s license, vehicle registration, title, identification card, and customer information maintained in any format by the NJMVC.

Person – includes natural persons, firms or co-partnerships, corporations, associations, or other artificial bodies, and their members, officers, agents, employees, or other representatives.

Personal Information – In accordance with N.J.S.A. 39:2-3.3, personal information means information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address other than the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.

Program Provider – an approved provider authorized to issue Trip Permits or Temporary Authorities pursuant to the Program under the terms specified in this Agreement.

Seal – Refers to the NJMVC Seal adopted by the NJMVC Board on June 3, 2003 pursuant to N.J.S.A. 39:2A-13(a)(2), which shall be electronically pre-affixed to the TA and TP prior to mass reproduction.

2.0 RELATIONSHIP OF THE PARTIES AND EFFECTIVE DATE

- 2.1 The relationship of the Program Provider to the NJMVC is that of a Program Provider and not that of an employee of the NJMVC. The Program Provider, in accordance with its status as a Program Provider, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the State of New Jersey or of the NJMVC. The Program Provider will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State,

including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

The IFTA statute at N.J.S.A. 54:39A-24, the IFTA TP regulations at N.J.A.C. 13:18-3.5, 3.20 and 3.21, and the IRP statute at N.J.S.A. 39:3-6.12, and IRP TP regulations at N.J.A.C. 13:18-2.12 and 2.13, 2.24 and 2.25 shall govern the Program Provider's activities with respect to this Program.

3.0 CONTRACTUAL TERMS AND CONDITIONS

3.1 Terms and Conditions

- 3.1.1 This Agreement supersedes all prior agreements, negotiations, representations, proposals, awards, amendments and extensions, both written and oral, AND ANY REPRESENTATIONS, IF ANY, MADE BY AND BETWEEN THE PARTIES, relating to its subject matter. Neither this Agreement nor any part or interest of this Agreement may be assigned.
- 3.1.2 As per the effective date stated on page two(2), this Agreement shall continue in full force and effect for a period of three (3) years and may be extended for two (2) additional one-year (1) periods unless terminated earlier pursuant to the provisions of this Agreement. Any such extension(s) must be in writing pursuant to section 3.1.3 herein.
- 3.1.3 This Agreement may be amended or modified by the written request of either Party. Any proposed amendment or modification must be submitted to the other Party prior to any formal discussion or negotiation of the issue. Any proposed amendment to this Agreement will not be effective until NJMVC and the Program Provider, except where modifications are required by law, sign it. Such modifications shall apply upon notice from NJMVC to the Program Provider.
- 3.1.4 This Agreement, and any amendments or addenda thereto, represent the entire agreement between the NJMVC and the Program Provider with respect to the subject matter herein, and supersedes all other negotiations, contracts, including but not limited to the Original Agreement, and representations (if any) made by and between such Parties.
- 3.1.5 The Program Provider shall maintain all controlled inventory and transactional materials, in a secure location, until fully and properly completed and issued to a specifically identified commercial vehicle for purposes that fully comply with the requirements of the Program.
- 3.1.6 The Program Provider shall designate an agent who shall be responsible for service of legal process and other legal notices. The Program Provider shall immediately (within no more than twenty-four (24) hours), notify the NJMVC of a change in the agent identified pursuant to this subsection.

- 3.1.7 The failure of the State to enforce the provisions, or to require the performance of any provisions of this Agreement, shall in no way be construed as a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or of the right of the State to enforce thereafter each and every such provision.
- 3.1.8 Nothing contained in this Agreement shall be construed to require either companies or individuals that seek to obtain a TP or TA from a Program Provider to conduct business in New Jersey for any period of time that is measured in hourly increments,
- 3.1.9 Nothing contained in this Agreement shall be construed to permit a Program Provider to inform and/or require potential customers to have transactions processed through the Program.
- 3.1.10 Nothing contained in this Agreement shall be construed to preclude the NJMVC from entering into similar IFTA Trip Permit and IRP Temporary Authority Program Agreements with additional Program Providers.
- 3.1.11 There shall be no third-party beneficiaries of this Agreement, and no person, firm or entity not a party to this Agreement shall be entitled to claim any right, benefit or presumption from, or estoppel by, this Agreement.

3.2 Contract Transition

In the event the Program Provider's services end by either the expiration or termination of this Agreement, upon specific written request of the NJMVC, the Program Provider shall continue services pursuant to the terms of this Agreement for an additional period of up to ninety days (90) from the expiration date of this Agreement or any extension thereof.

3.3 Minimum Program Provider Staff Requirements

- a. The Program Provider shall maintain sufficient staff capable of providing prompt, efficient, courteous and professional service to clients seeking TP or TA. The Program Provider shall maintain sufficient staff to achieve a three (3)-business day turnaround time for the completion of transactions submitted for processing by clients.
- b. The Program Provider shall employ a full-time manager responsible for controlling and supervising all daily activities performed as part of the Program and this Agreement. A manager shall be present and performing his/her, duties on a full-time basis for a minimum of 40 (forty) hours per week during The Program Provider's normal business hours as agreed to in this Agreement.
- c. The Program Provider shall be responsible for payment of salaries and benefits for its employees, in addition to workers' compensation, liability insurance, bonding, necessary office supplies and equipment, and other expenses connected with providing services under this Agreement.

3.4 Permit Costs

The Program Provider shall pay the NJMVC a twenty-five dollar (\$25.00) fee for each TP or TA issued pursuant to this Agreement.

The parties agree that the NJMVC will provide blocks of 10 TP permit numbers or blocks of 10 TA permit numbers to Program Provider. The payment shall be made in the amount of two-hundred fifty dollars (\$250.00) for each block of 10 (ten) TP and/or a block of 10 (ten) TA by check payable to the NJMVC and remitted to the NJMVC Program Manager identified in Section 14 of this Agreement.

3.5 Compensation

The Program Provider shall receive no compensation from the NJMVC for services rendered by The Program Provider pursuant to the Program or this Agreement. The Program Provider may charge clients reasonable participation fees for each transaction.

NJMVC shall receive no compensation from the Program Provider for services rendered by The Program Provider other than those permit costs set forth in section 3.4 of this Agreement.

3.6 Subcontracting

The Program Provider shall not subcontract to fulfill any of its obligations under this Agreement. The Program Provider is solely responsible to meet all requirements as to performance contemplated in this Agreement, compliance with all terms and conditions of this Agreement, and compliance with all applicable laws.

3.7 Claims and Remedies

This Agreement shall be governed by the laws of the State of New Jersey, both as to interpretation and performance, and any action at law, suit in equity or judicial proceeding for the enforcement or breach of this Agreement or any provision thereof shall be instituted and maintained in any State court of competent jurisdiction in the County of Mercer, State of New Jersey.

3.8 Compliance with Applicable Laws

The Program Provider must comply with all local, State and federal laws, rules and regulations applicable to the services performed under this Agreement. This Agreement is subject to the New Jersey Contractual Liability Act and regulations of the State of New Jersey without reference to conflict of laws and principles.

3.9 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be void, invalid or otherwise unenforceable, such provision or portion may be reformed by the Parties, insofar as possible, to cure the defect and give maximum

effect to the intent of the Parties in entering into this Agreement to correct the issue and, in any event, the remainder of the Agreement shall continue in full force and effect.

3.10 Termination

3.12.1 The NJMVC shall have the right to terminate this Agreement at any time and for any reason in the public interest upon ninety (90) day prior written notice to the Program Provider. The Program Provider shall have the right to terminate this Agreement for any reason, by providing ninety (90) day prior written notice to the NJMVC.

If either Party, pursuant to the terms of this Section, terminates the Agreement:

The Program Provider shall not use or retain data or information obtained from the NJMVC and/or the NJMVC database without written consent from the NJMVC. Said written consent must be obtained within thirty (30) days of any termination under this paragraph.

3.12.2 The NJMVC may, in its sole discretion and without notice, deny, terminate or cancel participation by the Program Provider in the Program for one or more of the following reasons:

- a. The Program Provider fails to follow required or approved payment procedures;
- b. The Program Provider fails to comply with any local, State or federal law or regulation;
- c. The Program Provider misuses any NJMVC controlled inventory item provided by the NJMVC;
- d. The Program Provider fails to provide requested information or records for the purpose of an audit;
- e. The Program Provider fails to issue any TP or TA permits within any 12 (twelve) month period;
- f. Any other unacceptable condition or practice identified by the NJMVC; and/or
- g. Where required by law or court order.

4.0 SCOPE OF WORK

4.1 Scope of Services

- 4.1.1 This Agreement grants to the Program Provider limited use of NJMVC data (No personal data) as set forth in this Agreement and as required for participation in the Program.
- 4.1.2 The Program Provider shall perform all services defined by this Agreement in accordance with Titles 39 and 54 of the New Jersey statutes and any other applicable laws and/or regulations of the State of New Jersey.

4.2 COMPANY Responsibilities

4.2.1 Authorized Transactions

The Program Provider is granted authority to provide TPs and TAs consistent with the Business Process listed in Attachment A of this Agreement and incorporated herein. In addition, the Program Provider shall meet the following operational requirements:

- a. The Program Provider shall ensure the efficient, secure and accurate pick-up and delivery of controlled inventory for clients.
- b. The Program Provider shall be responsible for the professional quality, accuracy, security and timely completion of all the TPs and TAs issued.
- c. The Program Provider must limit the time for processing its receipt of an application for a TA and/or a TP and issuing a TA and/or a TP to three (3) business days.
- d. The Program Provider must provide a list on the form entitled "End of Day" business report, in electronic format, of all issued TPs and TAs to NJMVC at the end of each day. Daily reporting by entering the beginning and ending control numbers of inventory used for each category of items is required on End of Day business reports. Make PDF files containing copies of all issued permits for that business day, and e-mail the file to: MVCmotorcarriers@mvc.nj.gov. Subject line should contain the Company name; the word(s) IFTA (or IRP), and the starting and ending permit #s for the range of PDF images included in the e-mail.
- e. The Program Provider shall respond to transaction-related inquiries received from clients within one business day of receipt of inquiry.

4.2.2 Training

The Program Provider shall provide, within 30 days of the execution of this Agreement, a copy of its current TP and TA Training Program to the NJMVC, including any written materials, guides and manuals. The NJMVC reserves the right to, with and without notice; observe any or all training sessions conducted. The Program Provider shall inform all clients of any changes in NJMVC policies and procedures affecting the Program.

The Program Provider shall arrange for additional training that may be required due to audit exceptions, program procedures, or other circumstances and shall provide the NJMVC of all new written materials, guides and manuals provided as any changes or supplements to the original Training Program.

4.2.3 Inventory Control

The Program Provider shall provide an Inventory Security Plan to the NJMVC's Office of Motor Carrier prior to the effective date of this Agreement. Such plan shall include at a minimum:

- a. Ensure that the Controlled Inventory is used in strict numerical order to maintain continuity and contiguity and to avoid unnecessary breaks in the sequencing of TP and TA Permit Numbers;
- b. Daily reporting by entering the beginning and ending control numbers of inventory used for each category of items as required on End of Day business report screens;
- c. A daily procedure for reconciling the number of TPs and TAs physically used as shown on the day's End of Day business summary, _____ Program Provider shall document this reconciliation, this list of TPs and TAs used that day, and any discrepancies between the two counts and steps taken to resolve them;

4.3 NJMVC Responsibilities

- 4.3.1 The NJMVC may, in its sole discretion, audit transactions processed by the Program Provider through the Program.
- 4.3.2 The NJMVC Office of Motor Carrier will supply support to the Program Provider via phone or in person at NJMVC offices.
- 4.3.3 The NJMVC shall designate a Program Manager (see Section 14, *infra*) who will be responsible for the oversight of the Program.

5.0 PAYMENTS

The Program Provider shall be authorized and responsible to collect from clients all fees, payments, surcharges and other sums in connection with transactions processed through the Program.

Pursuant to this Agreement, there shall be no payments made to or from the NJMVC with respect to this Program, except permit fees as set forth section 3.4.

6.0 ADVERTISING

6.1 News Releases and Advertising

The Program provider may engage in promotional activities with respect to the Program, including the solicitation of potential clients, in person, by mail, telephone, internet or other media, to the extent permitted by law.

The Program Provider shall not issue any news releases or promotional activities pertaining to any aspect of the services provided under this Agreement without the prior written consent of the Program Manager. The Program Provider is prohibited from soliciting participation in the Program at Motor Vehicle Agencies or other NJMVC locations.

6.2 Use of the NJMVC Name

The Program Provider may use the NJMVC's name as necessary in connection with its provision of services to clients, with the prior written approval of the NJMVC. The Program Provider shall not state or imply that:

- a. The NJMVC requires the use of the Program by Program Providers;
- b. The NJMVC recommends the use of the Program to the exclusion of other similarly available services; or
- c. The Program Provider is the exclusive provider of such services.

7.0 WARRANTY, LIABILITY, INDEMNIFICATION, ACCIDENTS AND MISUSE OF RECORDS

7.1 Warranty

The Program Provider warrants that the Program shall at all times comply with the requirements contained in this Agreement.

7.2 Limitation of Liability

Neither the State of New Jersey nor the NJMVC shall be liable for any monetary damages resulting from the loss of data, the use of products, or the Program Providers performance or non-performance under this Agreement. In no event shall the State of New Jersey or the NJMVC be liable for any indirect, special, incidental, or consequential damages resulting from the loss of data, the use of products, or its performance or nonperformance under this Agreement, whether or not the State of New Jersey or the NJMVC was advised of the possibility of such damages.

7.3 Liability and Indemnification

The Program Provider shall indemnify, defend and save harmless the NJMVC and the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which arise from or result directly or indirectly from the services or other obligations undertaken by the Program Provider, its officers, employees, subcontractors and clients pursuant to this Agreement. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this Agreement.

The Program Provider acknowledges that the NJMVC and the State of New Jersey shall have no responsibility to indemnify, defend and save harmless the Program Provider and its employees, subcontractors and clients pursuant to this Agreement.

7.4 Liabilities Arising from Accidents

Nothing in this Agreement shall be construed to impose on the State of New Jersey or the NJMVC any liability arising from accidents to persons served by the Program Provider. Nothing contained in this Agreement shall limit or affect the responsibility of the Program Provider and its clients for injuries to persons going on or about the premises where the services provided hereunder are delivered. Nothing contained in this section shall be construed to limit the sovereign immunity of the State of New Jersey.

8.0 INSURANCE

8.1 Performance Bond

The Program Provider shall maintain, at its own expense throughout the term of this Agreement, a bond indemnifying the NJMVC for any loss the NJMVC incurs because of the performance, or failure to perform, by the Program Provider or any of its employees, agents or subcontractors under the terms of this Agreement. Such bond shall be for \$200,000 (two hundred thousand dollars) and shall be issued by a company licensed to issue surety bonds in the State of New Jersey. The bond shall be subject to the approval of the NJMVC and shall provide for a thirty (30) day written notice to the NJMVC prior to cancellation. A copy of the bond shall be

provided to the NJMVC's Program Manager prior to the execution of this Agreement.

8.2 Commercial General Liability Insurance

The Program Provider shall procure and maintain commercial general liability insurance in a per occurrence amount of not less than \$1,000,000 (one million dollars) for bodily and personal injury and for property damage, also naming the State of New Jersey and the NJMVC, its officers and employees as an "additional named insured." The policy shall have a "contractual liability endorsement" specifically referencing this Section 10. Such insurance shall provide for a thirty (30) day written notice to the Chief Administrator and the NJMVC's Program Manager prior to cancellation. Proof of such insurance shall be provided to the NJMVC's Program Manager prior to the execution of this Agreement.

9.0 **RETENTION OF RECORDS AND AUDIT**

9.1 Record Retention

The Program Provider shall retain all transactional related records and documents relating to the Program for two (2) years from the time an activity takes place and shall make those records available for inspection and audit by authorized representatives, agents or contractors of the State.

9.2 Audit

The NJMVC, or its authorized representatives or agents shall have the right to conduct audits and re-audits of the Program Provider at any time throughout the term of this Agreement and up to three (3) years after the expiration or termination of this Agreement. The Program Provider shall provide the NJMVC with access to its books, and records pertaining to transactions performed pursuant to this Agreement, for the purposes of audits, and re-audits and, where necessary, provide copies of documents at no cost to the NJMVC or State of New Jersey.

10.0 **ANTI-DISCRIMINATION**

The Program provider agrees not to discriminate in employment and agrees to abide by all anti-discrimination laws including, but not limited to, those contained within N.J.S.A. 10:2-1 through 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 and 10:5-38.

11.0 **AMERICANS WITH DISABILITIES ACT**

The Program Provider acknowledges that it must comply with all provisions of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. (the "Act"), and its implementing regulations, which prohibit discrimination on the basis

of disability by public entities in all services, programs and activities provided or made available by public entities. In providing any aid, benefit or service pursuant to this Agreement, the Program Provider agrees that its performance under this Agreement shall be in strict compliance with the Act and the regulations.

12.0 NON-SOLICITATION

In executing this Agreement, the Program Provider does hereby warrant and represent that this Agreement has not been solicited or secured, directly or indirectly in a manner contrary to the laws of the State of New Jersey, and that said laws have not been violated and shall not be violated by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any State employee, officer or official.

13.0 SERVICES PERFORMED UNDER AGREEMENT

This Agreement constitutes a “State Contract” as defined by N.J.S.A. 52:34-13.2, and as such, all services described and performed under this Agreement shall be performed within the United States of America.

14.0 CONTACT INFORMATION

All notices, amendments, questions or problems that arise in connection with this Agreement shall be sent, in writing, to the individuals designated as contact persons below. Each Party is required to immediately provide written notification to the other Party when a contact person’s information changes.

For NJMVC:

Program Manager
Brian Walsh, Manager
Office of Motor Carrier
New Jersey Motor Vehicle Commission
Front and Stockton Streets, PO Box 133
Trenton, New Jersey 08666
Phone: 609-633-9406
Fax: 609-341-3372
Email: brian.walsh@mvc.nj.gov

For _____ COMPANY:

Mr./Mrs./Ms:
Street:
City:
State:
Phone:
Fax:
Email:

15.0 This Agreement may be signed in counterparts, each of which, when so executed and delivered, shall be deemed original, but such counterparts shall together constitute the same instrument.

IN WITNESS WHEREOF, the Parties by their authorized representatives have executed this Agreement on the dates hereinafter stated.

NEW JERSEY MOTOR VEHICLE COMMISSION

By: _____
Raymond P. Martinez
Chairman and Chief Administrator

Witness:
By: _____
Name
Title

Dated: _____

(_____ COMPANY)

By: _____
President

Witness:
By: _____
Name
Title

Date: _____

This Agreement has been approved as to form.

By: _____
Name
Deputy Attorney General