

Independent Agent Agreement

This Independent Agent Agreement ("Agreement") is dated as of the date set forth on the signature page to this Agreement (the "Effective Date"), by and between Customized Trucking Services Inc., a Delaware corporation, whose address is 9487 Regency Square Blvd., Jacksonville, FL 32225-8126 (hereinafter referred to as "Customized") and _____ ("Agent") as identified below.

Agent:

Address:

City/State/Zip Code:

Telephone:

Fax:

EIN:

WHEREAS, Agent has substantial experience in the freight motor carrier industry and has contacts with shippers (individually the "Customer" and collectively the "Customers"), who have needs for transportation services for their cargo;

WHEREAS, Agent desires to contract with Customized by providing freight shipments of general commodities from Agent's Customers for referral to Customized by Agent and Agent desires to provide resources to transport said freight under Customized's operating authority with Customized approved operators;

WHEREAS, Customized Trucking Services Inc. is registered with the Federal Motor Carrier Safety Administration ("FMCSA") to operate as a for-hire motor carrier pursuant to No. MC-691357;

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein and intending to be legally bound, Customized and Agent agree as follows:

1. Authority of Agent and Limitations. Agent will provide freight shipments ("Shipments") from Customers, as described in Appendix A, to Customized as specifically set forth in this Agreement. Agent is an independent contractor to Customized, shall act on Customized behalf only to the extent provided in this Agreement and shall not have the power, unless specifically authorized in writing by Customized in advance, to appoint agents or sub-agents for Customized, to incur liabilities or indebtedness for Customized, to contract for Customized, to conduct billings for Customized, to compromise or settle claims against Customized, to represent that Agent has greater authority or a broader relationship with Customized than as provided for in this Agreement or to accept service of process for Customized. The performance of Agent under this Agreement will be under the property transportation Carrier license of Customized.
2. Exclusive Agent. Unless stated otherwise in Appendix A, this Agreement is exclusive to Customized, and accordingly Agent may not provide Shipments to any party other than Customized. This Agreement is not exclusive to Agent, and accordingly Customized may accept Shipments from Agent as well as any shipments from any party other than Agent, including but not limited to any shipments from any Customer of Agent.
3. Independent Contractors. Agent and Customized agree and intend to create by this Agreement an independent contractor relationship, and not a joint venture, partnership or an employer and employee relationship in any manner. Neither Agent nor Agent's employees shall be considered employees of Customized. Agent shall determine the manner, means and methods of performance of all services rendered under this Agreement and shall retain responsibility for same, including without limitation: (a) the wages, hours, working conditions, workers compensation, management supervision and all other aspects and requirements related to Agent's employees and/or the services provided by Agent under this Agreement; (b) all taxes and fees (including penalties and interest) imposed by any federal, provincial, state or local government on account of the receipt of income by Agent for

services rendered under this Agreement; and (c) all employment-related taxes and fees imposed by any federal, provincial, state or local government by virtue of Agent's status as an employer or sole proprietor, as the case may be. Agent shall defend and hold Customized harmless from any and all claims or demands by any person, government or agency as a result of or relating to such compensation or payroll taxes. The Agent, its contractors, subcontractors and employees of Agent shall not be entitled to any rights and shall make no claim under any pension, disability, workers compensation, federal or state employment statute or agency, death benefit, savings, retirement or other benefit program for Customized employees. Agent hereby agrees to indemnify, defend and hold harmless Customized and any affiliated company from and against any claim by Agent or Agent's employees, contractors or subcontractors. Agent's indemnification obligations shall survive the termination of this Agreement.

4. Compliance With Laws. With respect to the services provided herein, each party shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to all rules and regulations promulgated by the FMCSA and all other Federal and state agencies and departments having jurisdiction over the services to be performed or any part(s) thereof. While on Customer's premises, Agent's employees shall comply with Customized then current rules and regulations. Agent understands that failure to supply Agent's complete and correct federal taxpayer identification number to Customized may require Customized to comply with withholding requirements under applicable federal laws and Agent has voluntarily provided Customized with that number as part of this Agreement.

5. Responsibilities and Duties of Agent. Agent shall: (a) obtain the prior approval of Customized of all Customers and Shipments; (b) solicit contracts from Customers subject in each instance to Customized right to reject in its discretion any Customer, Shipment or contract without a penalty or commission to Agent or any third party; (c) upon request, make reasonable efforts to assist Customized in collecting amounts due Customized from any Customer or any other party that is responsible for paying freight charges for those Shipments provided by Agent and accepted by Carrier; (d) not accept claims or legal process on Customized behalf and instead direct claimants, process servers and similar parties to contact Customized; provided, however, that notwithstanding the foregoing, Agent shall promptly notify Customized concerning any claim, potential claim or legal process arising out of the performance of this Agreement; (e) maintain records as Customized may be legally required to maintain with respect to Agent's operations under this Agreement or as may reasonably be requested by Customized in writing; (h) provide Customized advance written notice of: the merger, consolidation, transfer or dissolution of assets of Agent; any assignment by Agent for the benefit of creditors, any bankruptcy filing by Agent, or the institution of any proceeding against Agent alleging that Agent is insolvent or unable to pay debts; the entry of any judgment against Agent or its partners, as applicable, and any civil or criminal actions instituted against Agent, Agent's owners, partners and/or directors, as applicable, relating to matters covered by this Agreement; (i) prepare complete and accurate forms, contracts and other documents reasonably requested by Customized from time to time; (j) maintain capabilities to communicate with Customized via Internet, Facsimile and/or Telephone; (k) maintain usual and customary office hours Monday through Friday of each week (local time) with additional after hours and weekend coverage as required to facilitate business; (l) for dispatch operations the Agent shall utilize Customized designated agent operating software systems supplied at Customized expense through the Agent supplied internet access; (m) conduct interviews with prospective independent owner operators to determine initial eligibility and assist independent owner operators throughout the qualification process to include but not limited to; providing the drivers with the Customized application, collecting and forwarding information from the drivers to Customized, guide the owner operator through the process as their main point of contact; (n) conduct initial log audits to ensure independent owner operators compliance with FMCSA regulations; (o) conduct road tests to insure readiness of new owner operators; (p) conduct new hire orientation sessions to familiarize drivers with Customized policies and procedures to include but not limited to safety, logs, trip sheets, daily inspection reports, etc. (q) maintain a secure yard as needed based on agency fleet needs; (r) without the prior approval of Customized, Agent may not invoice its/his/her own company for transportation charges and may not directly bill accounts for freight charges.

6. Credit Policy Approval. Agent shall secure a Customer credit approval from Customized prior to committing to providing service. Failure to receive credit approval will result in Agent being responsible to Customized for the full amount of any freight charges and Customized may, at its option, impose collection from Agent immediately or bill Agent directly for such charges. Agent's compensation will be held on all freight bills secured without a credit approval or receivables extending beyond credit limits until freight bills are paid. If Agent received a credit approval and approval for the Customer is rescinded at a later date, Agent will also be held liable to Customized for the full amount of the freight charges of any Shipments moved subsequently, but after written

notification by Customized. Without the prior approval of Customized, Agent may not invoice its/his/her own company for transportation charges and may not directly bill accounts for freight charges.

7. Commission. Agent shall be compensated on a weekly basis pursuant to the terms and conditions described in Appendix B (“Commission”). All required paperwork for billing of Customers (if applicable) must be received by Customized as necessary for accurate and timely billing prior to any agent compensation. Periodic statements of Shipments billed, amount paid to Agent, as well as Shipments tendered and accepted and not billed, will be made available to Agent as reasonably requested. In the event that any freight bill owed by a Customer on which Commission was advanced to Agent remains unpaid after ninety (90) days from the invoice date, Agent will, on demand by Customized, refund to Customized one hundred percent (100%) of the Commissions paid to Agent by Customized on account of the Shipments that remain unpaid; provided, however, that Customized will repay to Agent all Commission if the freight bill is subsequently collected by Customized without the assistance of an outside collection agency or an attorney. If Customized employs the services of an outside collection agency or attorney to effect the collection of a freight bill, and the outside collection agency or attorney is able to collect the entire freight bill or a portion of the original billed amount, then Customized will repay to the Agent a prorated portion of the amount of such Commission. The prorated portion will be the difference between the Commission on the original billed amount and the collected amount less the outside collection agency or attorney fees and cost. No commission shall be earned by or payable to Agent for Agents customer listed in Appendix A unless the load transaction is completed and Customized is entitled to bill and receive freight charges and accessorial charges (if any) from the party responsible for payment. Section 8 does not apply to loads covered by Agent which were not originated from the Agent.

8. Nonsolicitation. Agent agrees that during the term of this Agreement and for a period of twelve (12) months thereafter, it will not, directly or indirectly, employ any current or former Customized employee or solicit Customized employees to leave their employment with Customized, assist any person or entity in such employment or solicitation, or solicit or accept shipments from customers of Customized whose transportation patterns, needs and volumes were made known to Agent in conjunction with its business relationship with Customized, including without limitation Customized customer relationships existing prior to and continuing during such period (but excluding Agent’s customer relationships existing prior to and continuing during such period). Agent understands and agrees that protection of Customized customer base is vital to Customized business and that loss of such customer(s) will cause irreparable harm to Customized. As such, the parties agree that one of Customized’s remedies in the event of a breach of this Section and Section 20 by Agent will be Customized’s right to seek injunctive relief for such breach.

9. Accounting Practices. Upon Agent’s reasonable request, Agent shall be entitled to an accounting of its compensation, which accounting shall include either copies of rated freight bills and amounts collected thereunder or documentation containing substantially the same information, in each instance with respect to Shipments provided by Agent and accepted by Customized. Agent will not be entitled to any accounting of Customized’s revenue or Commissions, and the accounting by Customized shall be the exclusive accounting for Commissions.

10. Insurance. Agent shall procure and maintain, at no cost to Customized, and with reputable and financially responsible insurance underwriters, the following insurance coverage acceptable to Customized: (a) Comprehensive General Liability insurance covering liability for bodily injury (including injury resulting in death) and loss of or damage to property; (b) Automobile liability insurance for bodily injury (including injury resulting in death) and loss of or damage to property; (c) Worker’s Compensation insurance and Employer’s Liability insurance as required by applicable law, and (d) Any additional insurance required under any and all applicable United States, Canada and federal, state, provincial and local laws, rules and regulations.

The insurance specified above shall include a requirement that the insurer provide Customized with thirty (30) days prior written notice of any cancellation or material change in the insurance. The insurance specified in subsections (a) and (b) above shall name Customized as an additional named insured in matters covered by this Agreement. Agent shall provide with certificates or other documentary evidence satisfactory to Customized of the above insurance, including new insurance certificates prior to the policy expiration date of any coverage during the term of this Agreement. Upon request, Agent shall provide Customized with a copy of each such policy.

11. Indemnification. Agent shall indemnify, defend and hold harmless Customized and affiliated companies of each of them and their respective directors, officers, agents, and employees (individually “Indemnitee” and collectively “Indemnitees”), from and against any and all fines, loss, damage, injury, liability and claims, including injury to or death of any person or for loss of or damage to property (including loss of use thereof), and including reasonable attorney’s fees and cost relating to the foregoing, resulting or arising directly or indirectly from Agent’s, its employees’, or its subcontractors’ acts, omissions or breach of this Agreement. This indemnity shall not apply to an Indemnitee to the extent any liability is caused or contributed to by the sole negligent acts or omissions of such Indemnitee. Each party shall notify the other promptly of any claim or demand which the party becomes aware of and for which Agent is responsible hereunder, and shall cooperate with the other party in every reasonable way to facilitate the defense of any such claim.

12. Term and Termination. This Agreement shall be effective on the date hereof and shall continue until terminated by not less than sixty (60) days prior written notice from one party to the other. Notwithstanding any provision to the contrary in this Agreement, either party may immediately terminate this Agreement if the other party (a) files a voluntary petition in bankruptcy, (b) makes an assignment for the benefit of creditors, (c) enters into receivership, (d) is involuntarily adjudicated as bankrupt by any court of competent jurisdiction, (e) violates any terms or conditions of this Agreement, and such violation continues for a period of thirty (30) days after written notice of the violation is received by the party purportedly in violation. Termination of this Agreement shall not relieve Customized or Agent from performing their obligations under this Agreement, which accrued prior to termination of this Agreement. The provisions contained in Sections 9, 10, 12, 20 and 25 of this Agreement shall survive the termination or expiration of this Agreement.

13. Force Majeure. Neither Agent nor Customized shall be liable to the other for any failure to perform under this Agreement due to acts of God, war, fires, floods, explosions or other natural catastrophes, civil disturbances, riots, unusually severe weather such as tornadoes, or failures or fluctuations in electrical power, heat, light, air conditioning, telecommunications lines or equipment, failure in computer software, hardware or related materials, or similar circumstances, provided: (a) as to any failure of Customized to perform, a negligent act or omission of Customized does not contribute to any such failure to perform, and (b) as to any failure of Agent to perform, a negligent act or omission of Agent does not contribute to any such failure to perform.

In such event, the performance of Agent’s or Customized’s obligations shall be suspended during, but not longer than, the period of existence of such event and the period reasonably required to perform the obligations. In such event, Agent or Customized shall notify the other of such event and shall use reasonable efforts to minimize the consequences of such event.

14. Trademarks and Logos. Agent may use any of Customized trade names, trademarks, service marks, slogans, designs, logos and similar items or rights owned or used by Customized with prior written consent. All property or paperwork containing Customized’s trade name or logo shall be returned to Customized by Agent upon termination of this Agreement.

15. Amendments. This Agreement, including Appendices, may only be amended by a writing specifically referencing this Agreement, which amendment must be executed by Agent and Customized

16. Assignment. Except as expressly set forth in this Agreement, neither party may assign its rights or delegate or subcontract its duties and obligations under this Agreement to any other person or entity without the prior written consent of the other; provided, however, that either party may assign this Agreement to an affiliate or a successor-in-interest upon notice to the other party but without that party’s consent.

17. Arbitration, Waiver of Trial by Jury and Limitations. Any and all claims, causes of action, and/or other disputes that arise between the parties, including but not limited to disputes regarding the formation or interpretation of this Agreement or its enforcement, shall be submitted for consideration and resolution to final and non-binding arbitration in Duval County, Florida (or in such other location as Agent and Customized may agree to in writing), pursuant to the Commercial Arbitration Rules of the American Arbitration Association in effect from time to time. Each party shall equally bear and share the cost of the arbitration proceeding, and each of them shall pay its own costs and attorneys fees; provided, however, that the arbitrator(s), in their sole discretion, may award costs and reasonable attorneys fees to the prevailing party. The applicable statutes of limitations laws, which would govern the

time within which any such dispute may be filed with a proper court, shall govern the time within which any such dispute may be submitted to arbitration as provided in this Section.

18. Choice of Law. This Agreement, including its formation, application, performance, enforcement, the relationship between the parties, and any claims, demands, causes of action and disputes in any way arising out of or related to it, shall be governed, construed and interpreted under the substantive law (and the law of remedies, if applicable) of the State of Florida except to the extent that mandatory laws, rules and regulations of the United States govern this Agreement.

19. Confidentiality. During the performance of this Agreement or after the termination or expiration of this Agreement, neither Agent nor Customized shall disclose to any other person or entity any of the procedures, practices, dealings or other information concerning the business, finances, transactions or affairs of Agent or Customized that is disclosed by Agent to Customized, by Customized to Agent or as a result of performance of Customized or Agent under this Agreement, in whatever form or which constitutes a trade secret under applicable law, including any verbal or written information or other documentation (collectively, "Confidential Information"). Confidential Information includes, without limitation, information concerning rates, charges, origins, destinations, products and sales or marketing information relating to a shipment. The provisions of this Section shall not apply to: (a) information already in the possession of the receiving party as of the time of the disclosure that was not given to the receiving party under a then-existing obligation of confidentiality, (b) information developed independently by the receiving party without reference to, or use of, any Confidential Information, (c) information obtained by the receiving party without any obligation of confidentiality to the disclosing party, (d) information publicly available when received, or which thereafter becomes publicly available other than through any unauthorized disclosure by, through, or on behalf of, the receiving party, and/or (e) disclosures required by law.

20. Communications. All communications between Agent and Customized regarding this Agreement or any other related document or transaction will be conducted through Agent's and Customized representatives as specified on the signature page to this Agreement, or such other person as Agent or Customized may notify the other of in writing from time to time.

21. Prior Communications; Entire Agreement. This Agreement supersedes any prior oral or written understanding or agreements or other communications between the parties with respect to the subject matter of this Agreement, including without limitation any agreement for provision of Shipments by Agent to Customized. This Agreement is signed without reliance upon any oral, written, express or implied representations, commitments, statements, promises or other inducements of any kind or nature made by any person or by Agent or Customized, or their agents, other than as expressly set forth in this Agreement. This Agreement and the documents referred to herein constitute the entire agreement of the parties regarding the subject matter of this Agreement.

22. Severability. If any term in this Agreement is found by a competent legal authority to be illegal or unenforceable in any respect, the validity and enforceability of the remainder of this Agreement will be unaffected.

23. Notice. All notices, requests, consents, approvals and other communications that are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given or made when sent by certified mail, return receipt requested, all postage and other charges prepaid or overnight courier service addressed to the parties at their following respective addresses shown on the signature page of this Agreement.

24. Waiver. An effective waiver under this Agreement must be specific, in writing, and signed by the party waiving its right. A waiver by Agent or Customized of any instance of the other's noncompliance with any obligation or responsibility under this Agreement will not be deemed a waiver of any subsequent instances.

25. Further Assurances. Agent and Customized agree that they will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other in connection with and during the term of this Agreement.

26. Binding Agreement. This Agreement shall inure to the benefit of and be binding upon Agent and Customized and their respective heirs, administrators, successors, permitted assigns and legal representatives.

IN WITNESS WHEREOF, the parties have executed this Independent Agent Agreement as of:
Effective Date: _____

Customized: Customized Trucking Services Inc
9487 Regency Square Blvd
Jacksonville, FL 32225

Agent:

Address:

Attention: _____

Telephone: 404-624-0233

Facsimile: 404-624-0238

By: _____

Authorized Representative

Name: _____

Title: _____

Date: _____

By: _____

Authorized Representative

Name: _____

Title: _____

Date: _____

Appendix B – Commission

1. Base Commission

Regardless of whether a shipment originates with one of Agent’s approved customers (see AppendixA), Agent shall be compensated in an amount equal to forty percent (40%) of the Net Revenue with respect to each shipment where Agent performs Dispatch Related Services as defined below.

All loads subject to the following definitions, exceptions and conditions:

- (a) Net revenue is defined as the transportation charge for Shipment(s) actually paid by the Customer to Customized for the movement of Customer’s cargo between the point of origin and point of destination reduced by: (i) any and all transportation charges paid by Customized to any third-party (including, but not limited to, owner-operators under lease to Customized) whether for the entire movement or for a pro-rata portion of the move; (ii) any and all expenses attributed to accessorial services or charges (including, but not limited to, fuel surcharges) paid to any third-party; (iii) any warehouse or storage charges; (iv) any revenue received by Customized related to excess value declarations or insurance charges; and (v) incentives, rebates, discounts, or commissions to Customers or other third parties.
- (b) “Dispatch Related Services” shall include, but not necessarily be limited to: (i) dispatch of a vehicle operating under the motor carrier operating authority of Customized; (ii) post-dispatch communications with the driver regarding the load (e.g., check calls, delivery confirmation); and (iii) collecting associating load-related paperwork to either be held by Agent or remitted to Customized, as instructed by Customized (if no instructions are given, Agent shall hold any such paperwork for at least three-years from the date of delivery of the underlying load).

Upon execution by Agent and Customized below, this Appendix B shall be a part of and incorporated by reference into the Independent Agent Agreement.

_____ Customized

_____ Agent

By: _____
 Authorized Representative
 Name: _____
 Title: _____
 Date: _____

By: _____
 Authorized Representative
 Name: _____
 Title: _____
 Date: _____