

A program of the Intermodal Association of North America

July 17, 2018

Transmitted Via E-mail

TO: UIIA Participants
FROM: Debbie Sasko
AVP, Information Services
RE: Proposed Modifications to UII Agreement

In accordance with Appendix I, Section V, of the UIIA, all participants are hereby noticed of proposed modifications unanimously approved by the Intermodal Interchange Executive Committee (IIEC) during its meeting held on July 10/11, 2018. The proposed revisions are shown on the following pages along with an explanation of why the revisions were made and will impact the below sections of the UIIA:

- **Section D.3. – Equipment Condition, Items D.3.a and D.3.b.**
- **Section E.3. – Damage to Equipment, Items E.3.a. (2) and E.3.c. (2)**
- **Section F.4. – Indemnity, Item F.4.a.**
- **Section F.5. – Notice of Filed Claims, Item F.5.b.**
- **Administrative Procedures, Section I. Administration and Implementation, Items D. and E.**
- **Exhibit A – Motor Carrier Pre-trip Inspection**
- **Exhibit B – Provider Responsibility**
- **Exhibit C – Motor Carrier Responsibility During the Interchange Period**

Comments are welcome and may be submitted over the next 30 days and should be in writing, via e-mail to debbie.sasko@intermodal.org or by USPS to the address shown below. **All submissions must be received by August 17, 2018, in order to be considered.** The effective date of these revisions will not be before September 4, 2018.

Marc Blubaugh, IANA General Counsel
c/o Debbie Sasko, AVP Information Services
11785 Beltsville Drive, Suite 1100
Calverton, MD 20705-4048

Attachment

cc: Joni Casey, IIEC Chair and President/CEO, IANA
Marc Blubaugh, IANA General Counsel

Proposed Modifications to the UIIA

1. Section D.3 - Equipment Condition

- **Item D.3.a.** - Clarifies that both the Equipment Provider and Motor Carrier agree not to interchange equipment unless each Party has complied with their responsibilities under the Federal Motor Carrier Safety Regulations.

“Warranty: **WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS (“FMCSRs”) AND AGREE THAT THEY SHALL NOT INTERCHANGE EQUIPMENT UNLESS THEY HAVE COMPLIED WITH THE FMCSRs.**”

- **Item D.3.a. (1)** – Renumber Item D.3.a. (1) to New Item D.3.b (Note: No change to language in this provision and remaining items in this section will be re-numbered to be sequential).

2. Section E.3 - Damage to Equipment – Replace the term “**AGS Gate**” with “**Recorded Images**” to be consistent with the defined term in Section B. Definition of Terms, Item B.25.

- **Item E.3.a. (2)**

- 2) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider’s determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor’s name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of ~~an AGS~~ a gate transaction **using Recorded Images** such documentation must include images depicting the condition of the Equipment at the time of that Interchange.

- **Item E.3.c. (2)**

- 2) **Gate transactions using Recorded Images** ~~AGS Gate System (unmanned):~~ Invoices for repair of Damages must be issued no later than 120 calendar days from the date of Interchange at the time the Damage was documented.

3. Section F.4. - Indemnity – Clarifies that cargo claims that are not a result of a Motor Carrier commercial motor vehicle accident or theft of cargo during the interchange period are outside of the scope of the UIIA and would not be covered under Section F.4.a.

- **Item F.4.a.**

Subject to the exceptions set forth in Subsection (b) below, Motor Carrier agrees to defend, hold harmless and fully indemnify the Indemnitees (without regard to whether the Indemnitees’ liability is vicarious, implied in law, or as a result of the fault or negligence of the Indemnitees), against any and all claims, suits, loss, damage or liability, for bodily injury, death and/or property damage **(other than cargo loss, damage, or delay unrelated to a commercial motor vehicle accident involving the Motor Carrier or theft of the cargo during the Interchange Period)**, including reasonable attorney fees and costs incurred in the defense against a claim or suit, or incurred because of the

Section F.4.a. – continued

wrongful failure to defend against a claim or suit, or in enforcing subsection F.4 (collectively, the “Damages”), caused by or resulting from the Motor Carrier’s: use or maintenance of the Equipment during an Interchange Period; and/or presence on the Facility Operator’s premises.

4. **Section F.5. - Notice of Filed Claims** - Clarifies that a Motor Carrier would not be responsible for accident investigation and reconstruction costs as well as any EP incurred legal expenses as long as the Motor Carrier provided timely defense as required under Section F.5.a.

➤ **Item F.5.b.**

Provider, Equipment Owner and/or Facility Operator shall promptly notify Motor Carrier of any claim arising under Section F.4. which Provider, Equipment Owner and/or Facility Operator receives. Provider, Equipment Owner and/or Facility Operator shall not undertake any legal defense of or incur any legal expenses **(including, but not limited to, accident investigation and reconstruction costs)** pertaining to the claim submitted to the Motor Carrier, unless Motor Carrier fails to timely do so as provided in Section 5.a.

5. **Administrative Procedures, Section I. - Administration and Implementation, Item D. and Item E.** – Modify these two provisions to expand IIEC membership to equipment leasing companies that participate in the UIIA.

➤ **Item D.**

The Committee shall consist of a minimum of two representatives from each mode representing Motor, Ocean and Rail Carriers participating in the Agreement, with an equal representation of each mode. **In addition, one representative and two alternates from Equipment Leasing Companies participating in the Agreement will also serve on the Committee.** Each alternate shall participate in Committee meetings and serve as a voting member in the absence of a principal representative. In such absence, the modal voting members shall select the alternate who will act as the voting representative. Representatives and alternates must be from companies that are current signatories to the Agreement. Attendance at meetings is limited to voting members and alternates. If Committee members wish to have an industry representative invited to attend a meeting in an advisory capacity, the majority of the Committee must approve of this invitation prior to it being delivered.

➤ **Item E.**

To conduct business under the IANA Agreement, a quorum shall consist of the Chairperson and at least two Committee representatives **each from the Motor, Ocean and Rail modes and one Committee representative from the Equipment Leasing Company Providers.** ~~each involved industry mode or segment.~~

6. **Exhibit A** – The exhibit has been re-titled “Motor Carrier Pre-Trip Inspection” to clarify its purpose and an adjustment has also been made to the footnote since the sentence being removed is already addressed in Section D.3.a. of the UIIA. Proposed modifications to Exhibit A are shown on page 5 of this notice.

- 7. Exhibit B** – The exhibit has been re-titled to “Provider Responsibility” to clarify its purpose. The listing of Provider items has been alphabetized and re-ordered by components for ease of reference. In addition, the intro sentence has been revised and moved to the bottom of the exhibit to clarify that a repair made to items in Exhibit B is the responsibility of the Provider unless the repair was a result of damage that occurred during the interchange period. Proposed modifications to Exhibit B are shown on page 6 of this notice.
- 8. Exhibit C** – The exhibit has been re-titled to “Motor Carrier Responsibility during the Interchange Period” to clarify its purpose. The first two items under tires have been combined and a clarification has been added that citations associated with the use of equipment may be rebilled by the Provider to the Motor Carrier. Proposed modifications to Exhibit C are shown on page 7 of this notice.

Exhibit A to UIIA
Motor Carrier Pre-Trip Inspection
As referenced in Sections D.3.b and F.4.b.

The following list sets forth those items, which the Motor Carrier has responsibility for visually or audibly checking prior to use of the Equipment:

1. Chassis Twist Locks and Safety Latches – (Check that twist locks and safety latches are engaged and properly secured.)
2. Slider Pins – (Check that slider pins are engaged for all sliding chassis.)
3. Bolsters (Check that bolsters are not bent and the container can be secured properly.)
4. Landing Legs (Check that Landing legs are in 90 degree position and they move up and down properly.)
5. Sand Shoes (Check that sand shoes or dolly wheels are attached to landing legs and secure.)
6. Crank Handles (Check that handle is attached, secure and operable to move landing legs up and down.)
7. Mud Flaps – (Check that mud flaps are whole and properly secured.)
8. Tires (Check that the following conditions are **not** present.)
 - a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.
9. Rims (Check that rims are not cracked and/or bent.)
10. Rear Underride Guard (“ICC Bumper”) (Check that Guard is in place and not bent under the frame.)
11. Electrical Wiring/Lights – (Check that lights are in working order.)
12. Reflectors/Conspicuity Treatments (Check for reflector lenses and presence of conspicuity tape or bar on the 3 visual sides of the chassis.)
13. Brake Lines, Including Air Hoses and Glad Hands – (Check for audible air leaks and proper pressurization only.)
14. Current License Plate (Check to see that it is affixed to equipment.)
15. Proper Display of Hazardous Cargo Placards, In Accordance with Shipping Papers
16. Display of Current Non-expired Federal Placards or Stickers (Check to see that it is affixed to equipment.)

The foregoing list **above Motor Carrier Pre-Trip Inspection** does not include **the responsibility to identify** latent defects unless caused by or resulting from the negligent or intentional acts or omissions of the Motor Carrier, its agents, employees, vendors or subcontractors during the Interchange Period. ~~The foregoing list is without limitation of any federal or state legal requirements applicable to Motor Carrier with respect to use or operation of Equipment.~~

Exhibit B to UIIA
Equipment Owners ~~Provider~~ Responsibility

Axles
~~Axle due to insufficient lubrication~~
~~Axle spindle due to insufficient lubrication~~
~~Broken Batteries, **broken**~~
Battery box covers
Brake adjustments on trailers or chassis (1) ~~(2)~~
Brake and brake component repairs ~~(2)~~ **(3)**
~~Caulking/Sealing of Seams~~
~~Component securements, bolts, rivets, welds~~
~~Closed trailer or container~~ **or Closed Trailer**, roof bows
Container or Trailer, caulking/sealing of ~~Old existing~~ **patches & seams**
Container or Trailer, interior lining **and interior posts**
Container securement device handles
Conspicuity treatment
Dolly axle, **wheels and sand shoes**
~~Replacement of d~~ **Dolly crank handle, replacement**
~~Dolly Wheels~~
Door locking bar handles **and tie-backs**
~~Door Tie-backs~~
~~Cleaning and adjustment of e~~ **Electrical connector socket, cleaning, adjustment and replacement**
Fasteners, component securements, bolts, rivets, welds
Floor or decking **(3)**
~~Replacement or repair of g~~ **Gladhands, replacement or repair**
Hub assembly due to insufficient lubrication
~~FMCSA Inspections, **FMCSA and BIT**~~
~~Interior landing gear components~~
~~Interior Posts~~
Landing gear, **interior components and** operating cross shaft
Lift pads
Lights
Manifest box
~~Initial + Number Markings, **initial and number**~~
Mud flaps + **and** brackets
~~PI Certification~~
~~Refrigeration Cabinet Doors~~
~~Heating and/or r~~ **Refrigeration/Heating** unit repairs **including cabinet doors**
~~Application for r~~ **Registration papers, application**
Roll-up doors
Safety Latches
~~Sand Shoes~~
Side doors
Sign boards
Sliding Tandem removable locking bars
Tank container Components
~~Repairs, renewals or replacement of t~~ **Tires and and/or t** **ubes, renewals, repairs or replacement**
Trailer/Chassis locking assemblies
~~Damage to the first three~~ **Trailer** crossmembers, **Damage** (4)
~~Application of v~~ **Vehicle license plates, application**

(1) Not equipped with automatic slack adjusters

~~(2) Upon Drivers Request with Drivers signature required~~

~~(3) Except servicing due to accumulation of ice and snow~~

(3) Damage caused during cargo loading/unloading operations excluded from Motor Carrier responsibility

(4) **Damage to the first three crossmembers** located behind the grid section of trailers not originally equipped with grid extension plate

A Repairs made to any item listed in Exhibit B **is the responsibility of the Provider unless the repair made is that were a result of damage that occurred during the Interchange Period.** ~~and not normal Wear and Tear, are the responsibility of the Motor Carrier.~~

Exhibit C to UIIA
Motor Carrier Responsibility during the Interchange Period

Motor Carrier Responsibility During the Interchange Period

Tires

~~Tire has body ply or belt material exposed through the tread or sidewall~~

Tire **sidewall**, shoulder or tread cut/punctured/**damaged exposing belt material**. ~~through one or more plies of fabric, when such injury is larger than 1/4"~~

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

Run Flat **D**amage to tire and/or tube

Missing Tire, tube or rim

Removable Items

- Missing chains, binders and cables
- Missing tarpaulins and securements
- Missing tarpaulins bows
- Missing rear header bar
- Missing bulkhead

Cut or Torn (through the thickness of metal)

- Metal door, gate, sheet, post, crossmember, brace or support
- DOT Under Ride Guard

Bent (where proper operation or function of unit is impaired)

- Metal door, gate, sheet, post, crossmember, brace or support
- DOT Under Ride Guard

Missing Items

- DOT Under Ride Guard
- Door or Gate
- Removable side or section
- Refrigeration unit parts

Interior

- Interior not free of dunnage, bracing and/or debris
- Contamination

Other - Correction of temporary repairs

Citations - Citations **associated with the use of equipment** may be rebilled from the owner **Provider** to the user **Motor Carrier**

The foregoing list does not include Defects as defined in Section B, Definitions of Terms.