



**2005 HAUL AGREEMENT
(A FAXED COPY OF THIS AGREEMENT WILL BE CONSIDERED AS AN ORIGINAL)**

Between **(Prime Carrier)**

Mr. Trucker, Inc.
2710 Loomis Road
Stockton, CA 95205
Ph: 209-462-9168
Fax 209-462-9231

And

_____ **(Subhauler)**

Motor Carrier Permit No. _____ Expiration/Renewal Date _____

General Agreement

Mr. Trucker, Inc. (hereinafter called Prime Carrier) is a California Corporation engaged in the transportation of property in intrastate and interstate commerce under operating authority of the California Department of Motor Vehicles and the Federal Motor Carrier Safety Administration.

For the purpose of this agreement, movement of property transported by Independent Contractor for Prime Carrier will be required to be made under Independent Contractor's operating authority granted by the California Department of Motor Vehicles and/or the Federal Motor Carrier Safety Administration. In no event will Independent Contractor make shipments under Prime Carriers operating authority under the terms of this agreement.

Independent Contractor (hereinafter called Subhauler) is engaged in the trucking business and is fully familiar with the trucking services to be provided and the conditions under which the work is to be performed. Subhauler has title to the motor vehicle(s) and trailer(s) described in the equipment schedule attached to this Agreement, or has the right to the exclusive use of this equipment, or has lawful possession of this equipment. Subhauler is the holder of all state, federal, county or city certificates, permits, registrations, authorizations and licenses that are required or necessary for the conduct of business and the performance of services under the terms of this Agreement. Subhauler will continue to hold such certificates, permits, registrations, authorizations and licenses in full force and effect at all times while providing services under the terms of this Agreement. Subhauler is fully familiar with transportation safety regulations promulgated in the California Vehicle Code (hereinafter called CVC), Title 13 of the California Code of Regulations (hereinafter called CCR 13) and Title 49 of the Code of Federal Regulations (hereinafter called CFR 49) that are applicable to transportation services provided to Prime Carrier by Subhauler under the terms of this Agreement, and agrees to remain in compliance with said regulations at all times while providing services for Prime Carrier under the terms of this Agreement.

Prime Carrier desires to enter into an agreement to engage Subhauler, as an Independent Contractor, for the purpose of transporting sand, gravel, asphalt, dirt, debris and similar materials. Subhauler desires to contract with Prime Carrier to transport said commodities.

Therefore, in consideration of the mutual promises and agreements set forth in this Agreement, Prime Carrier and Subhauler agree as follows:



Relationship of Parties

It is the express intent of the parties hereto that Subhauler is an independent contractor, and not an employee, lessee, agent, joint venture, or partner of Prime Carrier for any purpose whatsoever. This Agreement is intended by the parties to create the relationship of Prime Carrier and independent contractor, and not an employer-employee relationship. Neither Subhauler nor its employees shall be considered employees of Prime Carriers at any time under any circumstances, or for any purpose. Neither party is the agent of the other, and neither party shall have the right to bind the other by contract or otherwise, except as herein specifically provided in this Agreement. Prime Carrier shall have no right to, and shall not, control the manner or prescribe the method of accomplishing those services that shall be contracted to and performed by the Subhauler pursuant to this Agreement. The general public and all governmental agencies regulating such activity shall be considered so informed.

The provisions of this Agreement that reserve ultimate authority of Prime Carrier have been entered into solely to achieve compliance with federal and state laws, rules and interpretations thereof. None of the provisions of this Agreement shall be interpreted or construed as creating or establishing an employer-employee relationship between Prime Carrier and Subhauler, or between Prime Carrier and any driver, agent, servant, or other employee of Subhauler.

Under this Agreement, nothing shall prevent Carrier from entering into similar agreements with other Subhauler's, nor shall Subhauler be prevented from performing work under agreements or contracts with other parties.

Subhauler shall have the right to refuse to haul shipments offered by Prime Carrier. Subhauler is not required to devote exclusive services to Prime Carrier, and shall have the right to perform services for others. Nothing in this Agreement shall be construed as an obligation by Prime Carrier to provide any specific quantity of loads or volume of freight to Subhauler.

Subhauler's Employees

Subhauler shall furnish at its own discretion, selection, and expense any labor required incident to the operation of Subhauler's equipment and the pickup, packing, loading, unloading, assembling, disassembling, delivery, and documentation of shipments in performance of services under this Agreement.

Subhauler shall assign only properly licensed, qualified employees to perform services for Subhauler under the terms of this Agreement. Subhauler shall not assign improperly licensed, unlicensed, or disqualified employees to perform services for Subhauler under the terms of this Agreement.

Subhauler shall be solely responsible for the direction and control of its employees, agents and servants, if any, performing labor for Subhauler under this Agreement. Subhauler shall be

responsible for their selection, hiring, terminating, supervision, work assignment, and direction. Subhauler shall be responsible for the setting of wages, hours, working conditions, and for

addressing its employee's grievances. Subhauler shall determine the method, means, and manner of the performance of the work of its employee's, agents, and servants, if any and their performance pursuant to this Agreement.

Prime Carrier shall neither have, nor exercise, disciplinary authority or control over Subhaulers employees. Prime Carrier shall have no authority to supervise or direct Subhaulers employees in the performance of

their work for Subhauler, and shall have no authority or right to select, approve, hire, terminate, or discipline any of Subhaulers employees.

Subhauler assumes full and sole responsibility for the payment of all wages, benefits and expenses of its employees, agents, or servants, if any, and for all state and federal income tax withholding, unemployment insurance, and Social Security taxes as to all persons employed by Subhauler in the performance of services under this Agreement. Subhauler shall be responsible for meeting and fulfilling the requirements of all regulations now or hereafter prescribed by legally constituting authority with respect hereto.



Prime Carrier shall not be responsible for the wages, benefits or expenses due Subhauler's employees, agents, or servants. Prime Carrier is not authorized to withhold state or federal income taxes, Social Security taxes, unemployment insurance taxes, or any other local, state or federal tax on behalf of Subhauler or Subhauler's employees. Subhauler shall indemnify, save, and hold harmless Prime Carrier from any and all liability Prime Carrier may incur by Subhauler's failure to comply with the terms of this paragraph.

Subhauler assumes all responsibility for maintaining adequate worker's compensation insurance coverage for itself and all employees, agents, or servants whom Subhauler employs in the performance of services under the terms of this Agreement. Subhauler shall provide Prime Carrier with appropriate evidence of said coverage by which Prime Carrier will receive thirty (30) days' notice of cancellation or change in coverage. Subhauler agrees to indemnify and hold Prime Carrier harmless from any and all liability, including attorney's fees, imposed or claimed, arising out of any injury, disability or death of any person who performs services under this Agreement.

Subhauler agrees, upon reasonable request by Prime Carrier, to provide Prime Carrier with a list of all driver employees covered by Subhauler's worker's compensation insurance policy.

In the event that any court or tribunal of competent jurisdiction enforces any judgment against Prime Carrier for any labor costs resulting from any employment relationship of employees, agents, or contractors of Subhauler, Subhauler agrees to indemnify Prime Carrier against any costs arising out of such judgment.

Therefore, in consideration of the above sections (Relationship of Parties and Contractor's Employees) of this Agreement, Prime Carrier and Subhauler agree that Subhauler is properly considered the Employer of its drivers in accordance with (49 CFR 382.107) when Subhauler is providing transportation service for Prime Carrier under the terms of this Agreement. All governmental agencies regulating such activity shall be considered so informed.

Scope of Operations

This agreement is between the Prime Carrier and the Subhauler. Subhauler shall not have the right to assign any of its rights or delegate any of its duties without express prior written consent of Prime Carrier. Any assignment or delegation not authorized in writing by Prime Carrier shall be void and shall constitute default by Subhauler.

Subhauler shall request work from Prime Carrier. In the event Prime Carrier makes available to Subhauler, Prime Carrier shall notify Subhauler of material to be transported and of the time and location to load same, all within a reasonable time prior to the required delivery time. Therefore, Subhauler will, without delay, cause said material to be transported to the place designated by Prime Carrier or by Prime Carrier's representative.

This Agreement shall not be construed as an agreement by the Prime Carrier to furnish any specific amount of goods, materials, or loads for transportation by Subhauler in any particular time or place.

Subhauler shall perform transportation and related services as may be necessary to serve Prime Carrier's customers and to protect customers' cargo against loss and damage. Such services shall conform to the requirements imposed by Prime Carrier under the terms of this Agreement and to the requirements of the Prime Carrier's customers.

Subhauler warrants that the equipment listed on the attached equipment schedule is properly licensed and/or permitted for operation in the State of California while providing service for Prime Carrier under the terms of this Agreement, and that licensing conditions and safety requirements set forth by governing agencies that may be applicable for continued legal operation of equipment shall be followed. Subhauler shall not obligate Prime Carrier for payment of any expense associated with licensing of Subhaulers equipment.



Subhauler shall be responsible for all costs and expenses incident to its performance of services under this Agreement, including all operating and maintenance costs for the equipment provided by Subhauler in said performance, including fuel and oil, special permits, all detention and accessorial services, gross revenue taxes, road taxes, tolls and ferries, equipment use fees or taxes, base plates, and any other tax, fine, or fee imposed or assessed against the equipment, cargo, or Carrier by any state or federal authority as a result of action by Subhauler or the employees, agents, or servants of Subhauler in performance of services under the terms of this Agreement.

Prime Carrier shall tender loads to Subhauler for transportation, and shall charge a processing fee per shipment. Prime Carrier shall deduct stated fee from payment due Subhauler.

Subhauler shall be responsible for cargo hauled for Prime Carrier under the terms of this Agreement and shall obtain and deliver to Prime Carrier a duly receipted document covering such shipments transported. It shall be the Subhauler's responsibility to obtain complete bills of lading, to produce the necessary signatures, and to deliver or mail all properly completed paperwork to Prime Carriers office within 24 hours of delivery.

Safety

Subhauler shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes with respect to safety. Subhauler accepts sole responsibility for the safety of its employees, if any, and agrees and intends to perform service for Prime Carrier under the terms of this Agreement in good faith, and in a safe, responsible and lawful manner.

Subhauler shall ensure that all vehicles used by Subhauler to provide the work covered by this Agreement are in safe operating condition and that they are operated in compliance with all provisions of federal and state laws and regulations where applicable, with CVC (including the CHP BIT program and the DMV pullnotice program), with CCR 13, and CFR 49.

Subhauler shall ensure that all drivers operating Subhauler's equipment are properly licensed and qualified in accordance with CVC, CCR 13 and CFR 49.

Performance

Performance is the essence of this Agreement. Insofar as practical, Prime Carrier shall provide Subhauler with reasonable scheduling information, and Subhauler shall conform to schedules provided by Prime Carrier. Subhauler agrees to begin work promptly as scheduled and as requested by Prime Carrier, to perform diligently, in a safe manner, in good faith and in full cooperation with Prime Carrier and with Prime Carriers customers, and to complete the work as requested by Prime Carrier. Failure to maintain the performance standard herein set forth shall give Prime Carrier the right to terminate this Agreement in the interest of protecting its reputation for provision of safe and reliable transportation service to its customers.

Compliance with Law

Subhauler is responsible for complying with all applicable laws, rules, regulations, ordinances, and other requirements imposed by federal, state, county or municipal government authority in the conduct of its

business. Subhauler is responsible for ensuring that its employees are in compliance with all laws, rules, regulations, ordinances, and other requirements imposed by federal, state, county or municipal government authority in the conduct of its business.

Subhauler shall indemnify and hold Prime Carrier harmless from Subhauler's violation of any applicable laws, rules, regulations, ordinances, and other requirements imposed by federal, state, county or municipal government authority. Upon failure of Subhauler to fulfill the requirements imposed by law, Prime Carrier may reduce Subhauler's compensation in any reasonable amount necessary to offset Prime Carriers loss and expenses, if any, arising out of such default, or may immediately terminate this Agreement, or both.



Prime Carrier shall have no obligation or responsibility to Subhauler of Subhauler's employees, agents, or servants for any fine, cost, or penalty, monetary or otherwise, arising out of Subhauler or Subhauler's employees violation of any law, rule, ordinance, or regulation of any and all governmental authority in and through whose jurisdiction Subhauler or its employees may be operating while providing service for Prime Carrier under the terms of this Agreement.

If Subhauler's operating authority is suspended or revoked by DMV, CHP and/or FMCSA during the time this Agreement is in effective, Subhauler shall immediately notify Prime Carrier. This Agreement shall then be considered breached, and shall be immediately terminated by Prime Carrier.

Liability and Insurance

Prime Carrier shall in no way be liable for any damage that may occur to Subhauler's equipment used in performance of services under this Agreement.

Subhauler shall indemnify and hold Prime Carrier harmless against any and all liability, including attorney's fees and costs, imposed or claimed to be imposed upon Prime Carrier arising directly or indirectly from the failure of Subhauler or Subhauler's employees, agents, servants, or representatives to comply with the provisions of this Agreement.

Subhauler shall indemnify and hold Prime Carrier harmless against any and all liability, including attorney's fees and costs, imposed or claimed to be imposed upon Prime Carrier arising directly

or indirectly from injury to or death of persons, from damage to property, from cargo damage, theft, or loss caused or alleged to be caused by or in connection with Subhauler's performance of service under this Agreement.

Subhauler shall pay any and all judgments rendered in connection with such injuries, death, claims, loss, or damage. In the event of such claims, Prime Carrier shall have the right to withhold payments of any sums due Subhauler until such claim has been settled or until Prime Carrier shall be reasonably satisfied that Subhauler has sufficient insurance to cover said claim.

Subhauler agrees to carry appropriate trucker's liability insurance coverage for all equipment operated by Subhauler. Such coverage shall be in a minimum amount of one million (\$1,000,000.00) combined single limit for bodily injury and property damage per occurrence. Subhauler agrees to name Prime Carrier as an additional insured to said insurance policy. An additional insured endorsement must be received by Prime Carrier prior to Subhauler performing work for Prime Carrier.

Subhauler shall agree to carry, at his sole cost and expense, property damage and public liability insurance on equipment at all times. Limits shall fall within State of California; Department of Motor Vehicle required minimums or higher amounts in compliance with state laws and regulations. Subhauler agrees to indemnify Prime Carrier against loss, theft, or damage of cargo arising out of actions of Subhauler or its agents or employees. Subhauler agrees that Prime Carrier may deduct costs of such incurred losses from compensation due Subhauler.

Subhauler shall provide unidentified trailer liability insurance for any trailer used while performing service for Prime Carrier under this Agreement. Unidentified trailer liability insurance obtained by Subhauler shall cover both unidentified semi-trailers and unidentified pull trailers. Subhauler agrees to name Prime Carrier as an additional insured to said insurance policy. An additional insured endorsement must be received by Prime Carrier prior to Subhauler performing work for Prime Carrier.

Payment for Services

Prime Carrier will prepare a statement covering services performed by Subhauler under the terms of this Agreement. Said statement shall be binding on Subhauler, unless written notice of any discrepancy is provided to Prime Carrier within fifteen (15) days of Subhauler's receipt of statement. Failure of Subhauler to notify Prime Carrier of any discrepancy within fifteen (15) days of receiving statement shall constitute a waiver by Subhauler of any legal alleged overpayment or underpayment.



Prime Carrier will compensate Subhauler for services performed under this Agreement in an amount equal to the "pay rate" agreed to between Prime Carrier and Subhauler, less any applicable deductions. The "pay rate" is the rate (per ton, per load, or per hour) offered by Prime Carrier for Subhauler's services. The pay rate shall be considered binding if Subhauler provides services at the pay rate indicated by the Prime Carrier. Subhauler will submit to Prime Carrier a monthly statement no later than the 10th day of the following month.

Subhauler hereby authorizes Prime Carrier to deduct from Subhauler's compensation any amounts owed by Subhauler to Prime Carrier, including but not limited to the following:

- 1) Five percent (5%) per Shipment Brokerage Fee.
- 2) Any amounts for which Prime Carrier may be liable resulting from failure of Subhauler to conform to the terms of this Agreement.
- 3) Any amounts for which Prime Carrier may be liable or back charged as a result of Subhauler pulling off a job.
- 4) Any claim for loss, shortage, damage or contamination of cargo handled by Subhauler.
- 5) Any fuel purchased from Prime Carrier.
- 6) Trailer rental payments as agreed to in the Trailer Rental Agreement if applicable.
- 7) Ten (10%) handling charge resulting from failure of Subhauler to conform to the terms of this Agreement.

Prime Carrier shall pay Subhauler for services under this Agreement, less any applicable deductions, on a monthly basis; provided that Subhauler has submitted signed copies of properly completed shipping documents related to such services to Prime Carrier in a timely manner within 24 hours of delivery, in accordance with the Relationship of Parties section of this Agreement.

Prime Carrier shall retain the option to pay Subhauler earlier than specified above. **In no event will Prime Carrier make any advances of compensation due Subhauler.**

Revocation of Prior Agreements

This Agreement shall constitute the entire agreement and understanding between the parties and shall not be modified, altered, changed, or amended in any way unless in writing and signed by both parties. This Agreement supersedes, replaces, and takes precedence over any prior contract and/or concerned with the same or similar matters between the parties.

Termination of Agreement

This Agreement shall commence on the date of execution and shall continue in effect until December 31, 2005. This Agreement may be terminated at an earlier date in accordance with the following provisions:

- 1) At any time upon mutual written consent of the parties hereto, but not earlier than thirty (30) days from the effective date of this Agreement.
- 2) If one party commits a material breach or default of the terms of this Agreement. A material breach or default will immediately terminate the Agreement. The negligent party shall be given written notice of termination of Agreement, and said notice shall specify the breach relied upon.
- 3) By either party without cause upon ten (10) business days prior written notice by certified mail to the other party, with the date of mailing commencing the ten (10) business day period, but not earlier than thirty (30) days from the effective date of this Agreement.

Upon termination of this Agreement, the following conditions shall apply:

- 1) Subhauler shall complete delivery of any shipment it may at the time be engaged in transporting. Should Subhauler fail to complete delivery of shipment, Subhauler will be held liable for all expenses incurred by Prime Carrier to complete the day's work.
- 2) Pending any final settlement, Prime Carrier is authorized to withhold such sums as deemed necessary by Prime Carrier to cover Subhauler's liability to Prime Carrier.



Enforcement

By agreeing to provide services requested by Prime Carrier, and/or by undertaking such services, Subhauler warrants that all conditions precedent in this Agreement have been satisfied and shall remain effective for the duration of Subhauler's provision of services pursuant to this Agreement. Subhauler shall indemnify Prime Carrier for any damages resulting from a breach of these warranties.

If any provision in this Agreement is deemed to be invalid, void, or unenforceable, the remaining provisions of this Agreement will nevertheless continue in full force without being deemed impaired or invalidated in any way.

The failure of Prime Carrier to enforce at any time any of the provisions of this Agreement, or to exercise any option herein provided, or to require at any time performance by Subhauler of any of the provisions herein, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the Prime Carrier to thereafter enforce each and every such provision.

The laws of the State of California as to interpretation and performance shall govern this Agreement. Since each party acknowledges having had the opportunity to be represented by independent council of its own choice throughout all negotiations preceding execution of this Agreement and any addenda to this Agreement, the parties agree that the terms of this Agreement shall be given a neutral interpretation and any ambiguities or uncertainty in the Agreement shall not be construed against either party.

Subhauler agrees to pay reasonable attorney's fees and all other costs and expense which may be incurred by Prime Carrier in the enforcement of this Agreement. In case of a dispute or litigation between Subhauler and Prime Carrier, it is hereby agreed that the jurisdiction and venue shall vest in San Joaquin County. All other venues are hereby expressly waived.

(A FAXED COPY OF THIS AGREEMENT WILL BE CONSIDERED AS AN ORIGINAL)

IN WITNESS WHEREOF, authorized representatives of the parties to this Agreement have executed it, including attached equipment schedule, incorporated as part of this Agreement, on this the _____ day of _____, 2005, and the same shall be considered binding upon both parties, their heirs, executors, successors, administrators and assignees, and shall remain in full force and effect until December 31, 2005 or until canceled according to the terms of this Agreement.

Subhauler's Name and Address

Prime Carrier
Mr. Trucker, Inc.
2710 Loomis Road
Stockton, CA 95205

Signature

Signature

Print

Print

Title

Title

Date

Date



SUBHAULER INFORMATION

Company Name _____

Billing Address _____

_____ City _____ State _____ Zip
Mailing Address _____

_____ City _____ State _____ Zip

Business Phone _____ Business Fax _____

Motor Carrier Permit No. _____ Expiration/Renewal Date _____

Federal Tax ID/Social Security Number _____