

**CON-WAY MULTIMODAL INC.
MASTER BROKER/MOTOR CARRIER AGREEMENT**

This Agreement ("Agreement"), between Con-way Multimodal Inc. ("CMM"), in its capacity as a broker arranging for motor carrier transportation of property, and any transportation provider not otherwise contracted with CMM ("Carrier"), provides as follows:

1. CARRIER SERVICES

In the course of its overall business as a broker, CMM arranges for the transportation of freight and products owned or controlled by customers (singly or collectively, "Customers"). CMM has authority and agrees to tender to Carrier for transportation, and Carrier shall transport in a timely manner, shipments of such products ("Carrier Services") pursuant to this Agreement.

2. SCOPE OF SERVICES

2.1. Description of Carrier Services. The scope of Carrier Services, commodity types to be transported, and requirements for Carrier Services hereunder, including any unique requirements which may vary from the terms of this Master part of the Agreement for each shipment awarded to Carrier by CMM are incorporated in a series of Rate Confirmation Sheets ("Rate Confirmation Sheets"), the form of which is attached to this Master Agreement as Exhibit A. The Rate Confirmation Sheets will be issued by CMM and must be approved in writing by authorized representatives of both CMM and Carrier. Carrier's written acceptance or commencement of any work or service under this Master Agreement or any Rate Confirmation Sheet constitutes Carrier's acceptance of these terms. Except as otherwise provided herein, any reference to this Agreement shall be deemed to include the Rate Confirmation Sheets and any other Exhibits thereto, and any governing publications or schedules expressly incorporated therein.

2.2. Brokers/Subcontractors. Carrier shall not tender any shipment or other Carrier Service hereunder to a broker or third-party logistics company for purposes of arranging delivery of shipments tendered to Carrier under this Agreement. Carrier shall not subcontract any Carrier Services to third-party carriers without giving prior written notice to CMM and obtaining from an authorized representative CMM's written consent to use any such subcontractor. Any such tendering of shipments or subcontracting shall not affect Carrier's responsibilities or liabilities to CMM under this Agreement. Carrier is and all times shall remain primarily liable to CMM and CMM's Customers for each and every shipment made under this Agreement. As among CMM, CMM's Customers and Carrier, all costs of rendering the Carrier Services (including compensation of subcontractors as well as payment of all taxes or other governmental assessments imposed on Carrier) shall be borne solely and exclusively by Carrier. . Carrier shall defend (including payment of reasonable attorney's fees and costs), indemnify and hold harmless CMM and its Customers from and against any claims for direct or duplicate payments claimed to be due to any contractor used or engaged by Carrier. The prohibition against subcontracting does not apply to a person or entity leasing motor vehicle equipment to Carrier pursuant to the provisions of 49 C.F.R. Part 376. Carrier shall indemnify, defend and hold harmless CMM and CMM's Customers from and against any claim, action, demand or damages, including reasonable attorney fees and costs, incurred by CMM or CMM's Customers, related in any manner to and resulting from the use by Carrier of any contractor.

2.3. Non-Exclusivity of Carrier Services. Neither Party intends to give the other Party any exclusive rights or privileges under this Agreement. Except as otherwise provided in this Agreement, either Party may contract with or otherwise provide service to any other motor carrier, broker, other intermediary or shipper.

3. RATES, CHARGES, TERMS AND CONDITIONS FOR SERVICES

3.1. Rates and Charges. As full and complete payment, CMM will compensate Carrier at the rates and charges, including any accessorial charges or surcharges, set forth in the Rate Confirmation Sheet, and such amounts shall be the sole and exclusive compensation for rendering the Carrier Services. No shipment tendered by CMM to Carrier shall be subject to rates or charges or other terms and conditions set forth in any tariff, rate

schedule, service guide or the equivalent type of publication maintained by Carrier, unless those rates and charges or other terms are expressly set forth in the Rate Confirmation Sheet. The Rate Confirmation Sheets shall also set forth any miscellaneous terms, conditions and business rules for specific Carrier Services (if applicable).

3.2 Invoicing and Payment. Invoicing procedures, including electronic invoicing, shall be as set forth in the Rate Confirmation Sheet. The following invoicing and payment terms and procedures shall apply to all Carrier Services:

(a) Carrier shall present complete and correct invoices to CMM for Carrier Services within ten (10) days of the delivery of the entire shipment at destination. Invoices presented later than ninety (90) days from the date of delivery of the entire shipment, or the date by which the shipment should have delivered, will not be accepted or paid by CMM, and Carrier waives any claim or right to payment relative to any invoices not submitted in accordance with this provision.

(b) CMM shall remit payment of invoices within thirty (30) days of receipt of a proper invoice, and required accompanying paperwork.

(c) Carrier waives any lien right(s) it might otherwise acquire by law or otherwise relative to any shipment of product for all sums due and payable to Carrier hereunder, whether for prior or current shipments.

(d) Carrier agrees and acknowledges that only CMM, and not any of CMM's Customers, is obligated to pay Carrier for any freight charges in accordance with this Agreement. Carrier's only recourse for the payment of freight charges hereunder is to CMM and not to any CMM Customer. Except as otherwise provided herein, Carrier waives any and all claims, including any lien rights, Carrier may have against any CMM Customer or their consignors or consignees for payment of freight charges. To the extent that any CMM Customer becomes bankrupt or subject to similar creditor remedies under applicable law and at such time the Customer owes charges to CMM, some of which may relate to Carrier Services, then Carrier agrees that CMM shall be obligated to pay Carrier only when and in such amount that CMM receives as payment from the Customer for such Carrier Services, or CMM may, in its sole discretion, assign any claim CMM may have against the Customer to Carrier for Carrier's own purposes, and in either case, such payment or assignment shall constitute full settlement of any claim Carrier may have against CMM for payment of outstanding invoices otherwise related to Carrier Services for such Customer.

3.3 Pricing Disputes. If Carrier alleges underpayment of applicable freight rates and charges by CMM, or if CMM alleges overcharges, overcollection or receipt of duplicate payments by Carrier, notice of any such claim by one party to the other must be given in writing within one hundred eighty (180) days after delivery or the first attempted delivery by Carrier of the shipment(s) relating to such overcharges/underpayment. The Party receiving any such over or undercharge claim, as the case may be, shall process it in accordance with 49 C.F.R. Part 378 as of the Effective Date of this Agreement. Any civil action or arbitration proceeding with respect to such a claim shall be filed within eighteen (18) months after delivery or the first attempted delivery of the involved shipment(s) by Carrier.

4. TERM AND TERMINATION

Term The term of this Agreement shall be for a period of one (1) year beginning on the date first set forth above shall automatically renew for successive one year terms. Notwithstanding the foregoing, either Party may terminate this Agreement, without cause, upon thirty (30) days' written notice from the terminating Party to the non-terminating Party.

5. LEGAL STATUS OF PARTIES AND SERVICES

5.1 Representations. Carrier represents and warrants that it is duly registered with Federal Motor Carrier Safety Administration ("FMCSA") as a motor carrier of property in interstate and foreign commerce pursuant to 49 U.S.C. § 13902. Carrier shall render all Carrier Services in a competent and professional manner, and in accordance with all applicable federal and state laws and regulations of the jurisdiction(s) within which the Carrier Services are rendered. CMM represents and warrants that it has full authority to tender goods for Carrier Services under this Agreement.

5.2 Contract Carriage. All Carrier Services performed by Carrier pursuant to this Agreement shall be as a motor carrier of property in interstate or foreign commerce and shall be rendered as contract carriage within the meaning of 49 U.S.C. §§ 13102(4)(B) and 14101(b). CMM and Carrier hereby expressly waive all provisions of Chapters 137 and 147 and any other provisions of Subtitle IV, Part B of Title 49, United States Code, to the extent that such provisions are in conflict with express provisions of this Agreement. The Parties do not, however, waive the provisions of that subtitle relating to registration, insurance, or safety fitness.

5.3 Relationship of parties. The relationship of Carrier to CMM is that of an independent contractor. By this Agreement, the Parties do not intend to provide for division of profits between Carrier, CMM and/or any CMM Customer, or to create any joint venture between Carrier, CMM and/or any CMM Customer, or otherwise to create a *de facto* or *de jure* joint enterprise or partnership between Carrier, CMM and/or any CMM Customer. Under no circumstances shall employees or agents of Carrier be deemed employees or agents of CMM or any CMM Customer, nor shall CMM or CMM Customer be liable for any wages, fees, payroll taxes, assessments or other expenses relating to employees or agents of Carrier.

6. FREIGHT DOCUMENTATION

The terms of this Agreement, including the Rate Confirmation Sheets and any other Exhibits thereto, shall apply to all shipments tendered to Carrier within the scope of this Agreement and shall take precedence over any conflicting terms contained in any bill of lading, receipt or other transportation document (Shipment Document) issued for any shipment tendered by CMM to Carrier within the scope of the Carrier Services. Except as otherwise permitted in the Rate Confirmation Sheets, the Shipment Document shall show CMM as the bill-to Party for freight charges, shall not show CMM as the shipper, consignee, consignor or motor carrier, and shall not show any entity other than Carrier as the carrier.

7. CARRIER'S TRANSPORTATION OBLIGATIONS AND COVENANTS

During the Term of this Agreement, Carrier covenants, represents and warrants that at all times Carrier and/or Carrier's contractors shall:

- (a) Provide to CMM Customers at each point of origin, as designated by CMM, such equipment, including tractor units and trailers ("the motor vehicle equipment"), consistent for such purposes, in good and safe operating condition to transport Customers' goods hereunder.
- (b) Provide the transportation services described herein promptly, efficiently, and safely with reasonable dispatch so as to meet CMM's delivery schedules, including those shipments designated as "hot" or "expedited" whereby CMM has timely notified Carrier of the need for expedited delivery and, after such notice, Carrier elects to transport such shipment for delivery as requested.
- (c) Provide duly and lawfully qualified personnel to operate the vehicles and perform the transportation services as required under this Agreement.
- (d) Ensure that all motor vehicles, including trailers, used to transport product hereunder are in good and suitable operating condition so as to avoid any loss of or damage to product in loading and unloading or while in transit. Carrier agrees that all trailer equipment shall be clean, dry, leakproof and not contaminated and will not have been used previously to transport garbage, trash, or solid or liquid waste or any other articles, whether hazardous or non-hazardous, which might taint or otherwise contaminate Customers' goods. Carrier shall inspect all such motor vehicle equipment for each shipment to ensure that the motor vehicle equipment conforms to the mandates of these provisions.
- (e) Carrier will take all necessary and proper precautions and actions to protect each shipment, and the products included therein, from theft, vandalism or other criminal activity.

8. INSURANCE

8.1 Carrier shall obtain and maintain in effect during the term of this Agreement the following types of insurance in at least the minimum amounts set forth below. All such insurance will be written on a primary basis and be required to respond and pay prior to any other available coverage:

- (a) Cargo Liability insurance with limits of liability not less than One Hundred Thousand Dollars (\$ 100,000) per occurrence or in such greater amount as may be required by regulatory bodies having jurisdiction;
- (b) Commercial Automobile Liability insurance with limits of liability of not less than One Million Dollars (\$ 1,000,000) per occurrence, or in such greater amount as may be required by regulatory bodies having jurisdiction;
- (c) Worker's Compensation coverage as required by statute and Employer's Liability insurance with limits of liability not less than One Million Dollars (\$ 1,000,000) per person/per accident / per occupational disease, or as required by law in the jurisdiction in which the Carrier resides;
- (d) Commercial General Liability insurance written on a current ISO standard form or its equivalent providing extended coverage including but not limited to, blanket contractual liability; personal injury and advertising liability; fire legal liability; broad form property damage liability, including completed operations; additional persons insured (employees); and extended bodily injury coverage; with limits of liability of not less than One Million Dollars (\$ 1,000,000) per occurrence; and,
- (e) Any other insurance required by the DOT, or any other governmental agency whose rules and regulations may apply to the Carrier's performance of services under this Agreement.

8.2 Carrier shall furnish CMM with a certificate of insurance in a form satisfactory to CMM evidencing that the coverage required in this Section 8 is in effect. Such certificate shall reflect that the policies described under (a), (b), (d) and (e) above have been endorsed to name CMM as an additional insured, and that such policies shall provide CMM with at least thirty (30) days' notice prior to cancellation, material change, or non renewal. Carrier shall cause its insurance carrier to provide CMM with a waiver of the insurer's rights of subrogation against CMM with regard to the coverages stated in paragraph 8.1 above. All insurance as required in this paragraph shall be maintained with reliable insurance companies having a Best rating of A-VII or better.

8.3 Failure of CMM to demand a certificate of insurance or failure of CMM to identify a deficiency in the Carrier's certificate of insurance shall not be construed as a waiver of Carrier's obligation to maintain such insurance. It is expressly understood that CMM does not represent that the coverage and limits of the insurance set forth herein will necessarily be adequate to protect the Carrier, and such coverage and limits shall not be deemed a limitation on Carrier's liability under the indemnity provisions in favor of CMM under this Agreement.

8.4 Carrier shall ensure that the activities and operations of all owner/operators or subcontracted carriers utilized by Carrier in the performance of this Agreement are covered by the same limits of insurance provided herein and that such contractors will comply with the insurance requirements of Carrier in favor of CMM as set forth in this Section 8.

8.5 If Carrier is authorized to be self-insured, it will not be required to comply with the specific coverage requirements described above. However, Carrier shall provide CMM with evidence of and the terms and conditions under which such authorization was received. Carrier shall give CMM written notice, as early as possible, of termination or possible termination or material modification of its self-insured liability coverages or the terms and conditions under which the authorization was received. In the event Carrier's self-insurance authority is terminated, Carrier agrees to and shall immediately comply with the provisions of Paragraphs 8.1, 8.2 and 8.3.

9. CARRIER'S LIABILITY FOR LOSS OR DAMAGE

9.1 Notwithstanding Section 5.2 hereof, except as otherwise specifically provided in a Rate Confirmation Sheet, Carrier shall be liable to CMM and/or its Customers for loss of or damage to any product shipped hereunder ("Freight Claim") equal to the full value thereof and in accordance with the provisions of 49 U.S.C.A. §14706. The term "full value" shall mean and be calculated on the basis of the retail price of product at the time of shipment, (without limitation of any kind or nature), together with transportation charges applicable to the kind and quantity of product so lost or damaged. Carrier agrees and acknowledges that no shipment hereunder is or shall be subject to any limit on the amount of Carrier's liability for any Freight Claim hereunder, except as provided herein. To the extent that Carrier, or anyone acting on behalf of Carrier, asserts any such limitation, Carrier waives and shall be estopped from asserting any such limitation contrary to the terms of this provision.

9.2 Freight Claims shall be filed in writing by CMM and/or its Customer to Carrier within nine (9) months from the date of delivery of a shipment, or, in the case of nondelivery, within nine (9) months from the date the

shipment should have been delivered. All Freight Claims shall be paid, declined or resolved within sixty (60) days of the date received by Carrier. Carrier shall provide CMM with written acknowledgment of the Freight Claim within fifteen (15) days of the receipt of the claim. Notwithstanding the foregoing, if any Freight Claim submitted to Carrier is acknowledged by Carrier to be due CMM and/or its Customer and is not paid within thirty (30) days of Carrier's acknowledgment to CMM, then CMM may, in its sole discretion, offset any such amount against any amount otherwise due Carrier and may terminate this Agreement by giving written notice of such action to Carrier. Any such termination shall be effective on the date the Carrier receives notice from CMM.

10. CUSTOMS AND SECURITY REQUIREMENTS

Carrier shall be responsible for ensuring compliance with all customs and security laws that are applicable to the Transportation Services either domestically in the United States, Canada or Mexico if within the scope of the Carrier Specific Addendum or for import or export to or from the United States, Canada or Mexico.

11. INDEMNIFICATION; NO CONSEQUENTIAL DAMAGES

11.1 Except as otherwise provided below, Carrier shall protect, defend, hold harmless and indemnify CMM and/or any CMM Customer and their respective directors, officers, employees, and agents (hereinafter collectively referred to as "Indemnitee") from and against:

(a) Any and all claims made against any Indemnitee by or on behalf of Carrier's employees, agents or subcontractors for wages or salary, as well as any other compensation or payments, including overtime resulting or claimed to have resulted, in whole or in part, from services provided to Carrier by any of Carrier's agents or contractors hereunder; and/or,

(b) Any and all penalties for fines of any nature and character (except those penalties or fines which are caused solely by CMM's Customers) which may be sought to be enforced against an Indemnitee by reason of an alleged violation by Carrier, as well as Carrier's agents or contractor, of any federal, state, or municipal law, rule or regulation related to Carrier's transportation services; and/or,

(c) All claims, demands, actions or causes of action which may at any time be brought against any Indemnitee because of death or injury to persons, including Carrier's employees, agents or contractors, or damage to property (except with respect to cargo loss or damage under Section 9 hereof) which may arise from or in connection with: (1) the maintenance, use or operation (including loading and unloading by Carrier, Carrier's agents or contractors or any motor vehicle or allied equipment in performance of services under this Agreement; and/or, (2) any and all acts or omissions of Carrier, its agents, employees or contractors in providing the transportation services to be provided under this Agreement; and/or,

(d) Any and all other claims made by or on behalf of a CMM Customer against any other Indemnitee, if such claim arises from the transportation services provided by Carrier, Carrier's agents or contractors under this Agreement.

(e) Any obligation to indemnify hereunder shall include any and all costs, expenses and reasonable attorneys' fees incurred or payable by any Indemnitee in settling such claims or penalties or fines or in investigating or defending against same.

(f) Notwithstanding any provision in this Agreement stating or implying to the contrary, Carrier shall not be obligated to indemnify or hold harmless any Indemnitee hereunder to the extent that any such penalty, fine, claim, action, and/or cause of action contemplated by this Section 11 results from, arises out of, or is in any manner proximately caused by the sole negligence of such Indemnitee.

11.2 Except as otherwise specifically provided in this Agreement or Rate Confirmation Sheet and any Exhibits thereto, neither Party shall be liable to the other for any indirect, consequential, special and/or punitive damages (such as, but not limited to, loss of profits, loss of market, loss of customer goodwill, or punitive or exemplary damages), regardless of whether the claim for such damages sounds in contract, tort, breach of warranty, consumer fraud, or otherwise.

12. FORCE MAJEURE

If either CMM or Carrier is prevented from or delayed in performing any of its obligations under this Agreement by reason of statutes, regulations or orders of a governmental entity (including actions taken by a court or by law

enforcement officials), or because of war, terrorism, acts of God, labor disturbances, civil unrest, or any cause beyond the reasonable control of such Party, that Party shall not be liable to the other Party for damages by reason of any delay or suspension of performance resulting from such legal restraints or force majeure. The Party invoking this Article, however, shall furnish the other Party with written notice of same no more than two business days after the onset of the conditions delaying or preventing performance.

13. CONFIDENTIALITY; BACK-SOLICITATION

Except to the extent required by law, neither Party shall disclose to third-parties (other than to (i) any Affiliate Company (as hereinafter defined) or (ii) to freight bill auditors, prospective capital providers, and outside professionals if such parties agree to similar confidentiality terms) either the terms of this Agreement or any confidential or proprietary information either Party learns about the other in the course of performing Carrier Services under this Agreement, including but not limited to software, business methods, customer lists, or the rates, valuation, origin, destination and consignee identity for any shipment within the scope of the Carrier Services. Carrier acknowledges that in the course of performing this Agreement, Carrier will have access to valuable information regarding CMM's Customers. Carrier shall not, directly or indirectly, solicit Carrier Services, Unique Services or other transportation services during the term of this Agreement, or for three (3) months thereafter, from any CMM customer for whom Carrier provided such services pursuant to this Agreement and within the scope of the Customer Specific Addendum.

14. MISCELLANEOUS

14.1. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the United States where applicable, and otherwise, with the laws of the State of California. The parties hereby submit to jurisdiction and venue in the United States Federal District Court for the District of Northern California (San Francisco or San Jose Divisions) or as applicable depending upon jurisdiction, the Superior Court in and for the County of San Mateo, State of California.

14.2. Notices. Any Notice required or permitted under this Agreement shall be deemed sufficient if sent by prepaid first-class mail, by a nationally recognized overnight courier, or by facsimile transmission, if such Notice is sent to the address or fax number of, and marked to the attention of the individual identified in the signatory provision of this Agreement as the Designated Notice Representative(s). Notices shall be considered to have been received by the addressee Party on the third business day after mailing, on the first business day after deposit with an overnight courier, or on the day a facsimile is transmitted if the sending machine produces written confirmation of a successful transmission. Each Party may change its Designated Notice Representative, or update the contact information for such individuals, by Prior Notice to the other Party in accordance with this Section 14, and without formal amendment of this Agreement under paragraph 14.3.

14.3. Entire Agreement; Amendments. This Agreement represents the entire agreement and understanding of the Parties with regard to its subject matter. No prior understandings or agreements of the Parties, whether written or oral, nor any documents not specifically incorporated into this Agreement, nor any course of conduct of the Parties before or after the Effective Date of this Agreement, shall have the effect of modifying the Parties' rights and obligations under this Agreement in any way. Except as provided in paragraph 14.2 with regard to changes in Designated Notice Representative and contact information and listings, no amendment to this Agreement shall be valid unless it is set forth in writing, specifies the sections, paragraphs and/or Exhibits or Addendum being amended, specifies an effective date for the amendments, and is signed by an authorized representative of each of the Parties.

14.5 Ownership of Documents and Software. All documents, reports, memoranda, drawings, specifications, photographs and other tangible information (hereafter, "Documents") provided by each Party to the other shall remain the valuable property of the Party providing such Documents. Each Party shall have exclusive rights to all software and software products solely developed and owned by them, including that software developed to facilitate the services hereunder. To the extent necessary for the services hereunder, CMM and Carrier grant to each other a limited, noncompensatory license in and for use of such software for purposes of this Agreement; which license shall terminate upon the termination of this Agreement for any reason hereunder. Neither Party shall have any right, title or interest in any trademarks or tradenames or other intellectual property (the

"Intellectual Property") owned, used or claimed now or in the future by either of them. Neither Party shall advertise to any third-party the existence of the Agreement without the prior written consent of the other.

14.5. Severability. To the extent that any provision of this Agreement may be held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall become ineffective as to all matters within the jurisdiction of that court. The court's ruling shall not be treated as affecting the validity or enforceability of any other provision of this Agreement, nor as affecting the validity or enforceability of any part of this Agreement in other jurisdictions.

14.6. Waiver. Neither the failure of a Party to exercise any right, power or privilege under this Agreement, nor its delay in any such exercise, shall operate as a waiver of that right, power or privilege. No such waiver shall be binding on either Party unless it is in writing and signed by a Designated Notice Representative of the Party against which the waiver is asserted. No such waiver on one occasion shall preclude subsequent full enforcement of a Party's rights, powers and privileges under this Agreement or at law or in equity.

14.7. Successors and Assigns. This Agreement shall be binding on, and shall inure to the benefit of, both Parties as well as their respective successors and permitted assigns. Assignment of this Agreement by either Party requires prior notice to and written consent of the other Party, except that either Party may assign and transfer this agreement and rights and obligations hereunder to any parent company, or to a wholly owned subsidiary of its parent company whether such ownership be direct or indirect through intermediate corporations ("Affiliate Company"), provided such Affiliate Company agrees in writing to comply with all terms and conditions of this Agreement.

14.8. Counterparts. This Agreement may be executed in one or more counterparts, any and all of which shall constitute one and the same instrument.