

The parties to this Agreement hereby agree to all the terms set forth above and execute this Agreement by the endorsements below in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PRINCIPAL CARRIER:**

**ROCK TIME TRANSPORT, INC.**

15022 San Fernando Rd  
Sylmar, CA 91342  
Tel: (818) 768-5400  
Fax: (818) 768-5402

\_\_\_\_\_  
Agent's name

\_\_\_\_\_  
Signature

**UNDERLING CARRIER:**

\_\_\_\_\_  
Subhauler

\_\_\_\_\_  
Address

\_\_\_\_\_  
CA Motor carrier permit

\_\_\_\_\_  
F.E.I.N or S.S.A.N (Social #)

\_\_\_\_\_  
Name of Agent

\_\_\_\_\_  
Signature

# Rock Time Transport, Inc.

15022 San Fernando Rd  
Sylmar, CA 91342

## UNDERLYING CARRIER / SUB HAULER AGREEMENT

Rock Time Transport, Inc. (hereinafter referred to as the "Carrier") and  
\_\_\_\_\_ (hereinafter referred to as "Underlying Carrier")  
agree as follows.

**1A.** The Underlying Carrier, as an independent contractor and not as an employee of the carrier, agrees to furnish transportation of certain materials consisting of rock, sand, gravel, earth, cement, dirt, concrete and other materials for the Carrier and to furnish all equipment and perform all service required for such trucking.

**1B.** Underlying Carrier is engaged in the trucking business for profit. Underlying Carrier will maintain and operate his equipment in compliance with the requirements of all regulatory entities at all times while providing services covered by this agreement. Carrier's policy herein is to comply with all applicable laws, and carrier will not accept responsibility for any violation of law by Underlying carrier's agents and/or Employees.

**1C.** Underlying Carrier is a holder of all State, Federal, County, or City Certificates, permits, registrations, authorizations and licenses which are required or necessary for the conduct of business as a transportation contractor in the construction dump trucking industry, and for the performance of services covered by the Carrier's permits, regulations, authorizations and licenses which are and will be full force and effect at all times providing services covered by the Carrier's Underlying Carrier Agreement.

**1D.** Notwithstanding this agreement, Carrier shall have the right to use the services of and other contractor or contractors of its choice. Underlying Carrier shall have the right to refuse to perform specific requests by the carrier to provide transportation services. Additionally, Underlying Carrier shall have the right to perform transportation services for carriers other than the Carrier.

**1E.** In the event that Underlying Carrier is pulling a trailer of Carrier, Underlying Carrier agrees to return trailer back to main terminal if Underlying Carrier decides to no longer work for Carrier. In the event this does NOT happen, Underlying Carrier will be charged for transportation of trailer back to Carrier's Terminal.

**2A.** Underlying Carrier represents that he is fully protected by Public Liability and Property Damage Insurance in amounts and with companies satisfactory to the Carrier. Underlying Carrier will deliver to the Carrier a certificate of insurance and an additional insured endorsement naming the Carrier by name, with an additional insured amount of at least \$1,000,000.00, prior to the commencement of any work. Such policy shall contain a provision that the carrier will be given at least (30) days notice prior to the termination of such insurance. Underlying Carrier is to have enough insurance as to cover the Carrier's

trailer in case of "tipping over" or "rollover". In this event, the underlying carrier must have at least \$20,000.00 coverage for this accident. Furthermore, Carrier will be compensated for monies lost for down time with respect to lost brokerage and trailer rent while repairs to the trailer are being made. Compensation will be computed at the going hourly rate, at 8 hours a day, at 23%. Compensation will immediately come out of the underlying carriers monthly sub haul check.

**2B.** Underlying Carrier shall be responsible for and carry adequate Workman's Compensation Insurance coverage for all agents or employee's representing Underlying Carrier. Underlying Carrier shall deliver to Carrier a certificate of Workman's Compensation Insurance and further agrees to indemnify and hold harmless the Carrier from any and all claims or demands of any kind, except payment of compensation due to Underlying carrier for hauling.

**2C.** Underlying Carrier recognizes that neither Underlying Carrier nor Underlying Carrier's employee's are eligible for coverage under Workman's Compensation policy held by the carrier, and Underlying Carrier recognizes that he is not entitled to make any claim with respect to any policy held by the Carrier.

**3A.** Underlying Carrier warrants and represents that to the best of his knowledge, the Department of Motor Vehicles separate authority referred to above is presently effective and authorizes transportation of freight to be carried under this Agreement; that he is in full compliance with all the requirements and regulations of said Department and that, in the event his operative permit is suspended or cancelled, he will immediately so notify the Carrier and discontinue hauling under this agreement.

**3B.** Underlying Carrier represents and warrants that he is an independent contractor and shall provide services covered by Carriers Underlying Carriers Agreement only as an independent contractor, and not as an employee of the Carrier.

**3C.** Underlying Carrier Warrants and represents that he is presently enrolled in a approved Drug Program. The CHP's Biennial Inspection of Terminal (BIT) program and, if applicable, the DMV's pull notice program. He further warrants that these will continue to be in effect at all times while hauling under this agreement.

**3D.** Underlying Carrier by agreeing to provide services requested by Carrier, or by undertaking such services, warrants that all conditions precedent to this Agreement have been satisfied and remain effective for the duration of Underlying Carrier's provision of services pursuant to this Agreement. Underlying Carrier shall indemnify Carrier for any and all damages resulting from breach of this warranty.

**4A.** Underlying Carrier will employ capable and responsible persons or agents to operate Underlying Carrier's equipment safely and expeditiously, and will maintain Underlying Carrier's equipment so as to efficiently perform the services required, and will supply at Carrier's request Department of Motor Vehicle's motor vehicles records or printouts for Underlying Carrier and/or agents that the Underlying Carrier engages.

**4B.** Underlying Carrier shall provide services under this Agreement in accordance with all applicable state and federal safety regulations.

**4C.** Underlying Carrier shall indemnify and save harmless the Carrier against any loss or damage expense which is in any manner directly or indirectly caused by any act, omission. Fault or negligence of the Underlying Carrier or anyone acting under his

direction, control or behalf, including reasonable attorney's fees which the Carrier may suffer or incur from any act or omission of the Underlying Carrier.

**4D.** Underlying Carrier shall maintain and operate underlying Carrier's equipment at Underlying Carrier's sole expense, and shall pay all charges arising there from including but not restricted to labor, fuel, brakes, repairs, interest charges, loan fees, parts, tires, labor, insurances, permits, and taxes levied or assessed; provided, however, that if Carrier pays or incurs such expenses in or on behalf of Underlying Carrier, Carrier may deduct at Carrier's discretion the amount of such expenses owed plus any fees or interest owed by the Underlying Carrier to the Carrier.

**4E.** Underlying carrier shall be solely responsible for compensating any person, including but not limited to employees, agents and independent contractors engaged by Underlying Carrier in connection with services performed pursuant to this Agreement.

**4F.** Underlying Carrier shall pay all fees, licenses, taxes, and fines necessary or incidental to the performance of services performed pursuant to this Agreement, including, but not limited to, general business and payroll liabilities.

**4G.** Underlying Carrier agrees and understands that Carrier requires that billing be accompanied by the signed copies of the shipping documents (hand tags) and that they be submitted to Carrier on a daily basis. In addition, Underlying Carrier will render a monthly statement of tags submitted for payment. In the event that a hand tag has not been paid on the month end statement, it is to be brought to the attention of dispatcher and the tag will be paid on the following month's statement.

**4H.** Underlying Carrier agrees to be 100% responsible for replacing tires on the trailer if they become too bald or low on tread depth due to normal use.

**4I.** Underlying Carrier agrees to be 100% responsible for all brakes, replacements and normal maintenance of brakes.

**5A.** Carrier from time to time shall request Underlying Carrier to provide service under this Agreement. Underlying Carrier shall direct operation of his equipment in all respects and shall determine the method, means, and manner of performances, including but not limited to such matters, as when load is to be picked up and delivered (within customer requirements); who is to load the vehicle and how it is to be loaded, tied down and unloaded; rest. fuel and oil stops; selection of routes; where vehicle is to be repaired; if and when credit cards should be used; if he or his employees should hire additional labor to load or unload the goods at pickup and destination points; the working hours of himself and his employees; their compensation and conditions of employment; which insurance company will provide insurance coverage; the method of financing his vehicle or vehicles.

**5B.** Carrier shall have no control over the person or operation of equipment used or employed by Underlying Carrier in providing devices under this Agreement. Further, Underlying Carrier shall be solely responsible for the direction and control of the employees, agents and servants of the Underlying Carrier, including their selection, hiring, firing, supervision, assignments and direction, the setting of wages, hours, working conditions and adjustments of their grievances. Underlying Carrier assumes full and sole responsibility for the payment of all wages, benefits, and expenses of his employees, if any, and for all state and federal income tax withholdings, unemployment insurance and Social Security taxes for all persons employed by the Underlying Carrier in the performance of services under this Agreement. 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 the behalf of the Underlying Carrier or Underlying carrier's employees or agents, unless notified by the appropriate taxing agency.

**6A.** If the Underlying Carrier fills out the hand tag improperly and totals the incorrect amount of hours, the Underlying carrier may not come back to the carrier and request a larger amount. This is due to the fact that the Carrier has already billed out the lesser amount and the difference would come out of Carriers pocket.

**6B.** Carrier shall compensate Underlying Carrier for services performed under this Agreement, a sum equal to, or no less than ninety per cent (90%) of applicable rate prescribed for the specific haul, the exception to this rule is in the event that the Underlying Carrier pulls a trailer for the Carrier, in which case a rental fee will be agreed to by both parties.

Provided, however, the Underlying Carrier hereby authorizes Carrier to deduct from such amount, any amount owed by Underlying Carrier to Carrier, including but not limited to:

1. Any amounts for repairs, maintenance, fuel, oil, labor and labor-related items, tires, insurance, merchandise or services provided by Carrier to Underlying Carrier, or to Underlying Carrier's employee agents.

2. Any amounts advanced by Carrier to or on behalf of Underlying Carrier.

3. Any amounts for which Carrier may be liable due to Underlying Carrier's failure to conform to the terms of this Agreement; including, but not limited to, attorney fees, legal costs, professional collection fees, and court costs.

4. If Underlying Carrier leases trailing equipment, rents a radio, or opens a fuel account from Carrier, Underlying Carrier agrees to append to this Agreement Carrier's Trailer Lease Agreement, Radio Rental Agreement, or Fuel Card Agreement and such amounts as are owed to Carrier shall be deducted from amounts owed to Underlying Carrier that is payable on or about the twenty fifth (25<sup>th</sup>) day of each succeeding month at the amount so determined and agreed upon.

5. Any and all costs incurred due to damages inflicted on Carrier's property while entrusted to Underlying Carrier, including, but not limited to, the replacement cost's or repairs for damages.

6. Any claim for loss, damage or shortage of cargo handled by Underlying Carrier.

7. All claims for damages to customers of the Carrier, as a result of Underlying Carrier's actions, including but limited to, breaches of this Agreement by Underlying Carrier and/or Underlying Carrier's employees or agents.

8. A fifteen percent (15%) handling charge for any of the above.

**6B.** Carrier shall pay Underlying Carrier the amount specified in 6A of this Agreement, less any deductions authorized by this Agreement on or about the twenty-fifth (25<sup>th</sup>) day of the following month in which the Underlying Carrier completed the services, as agreed to be performed, and delivered to Carrier all signed copies of the

shipping documents related to such services no later than three days following performance of services.

**6C.** Carrier makes no guaranty of payment or liability to Underlying Carrier, express or otherwise, for shipping documents delivered to Carrier in excess of thirty (30) days following the last day of the month in which services were performed.

**6D.** Carrier accepts the Underlying Carrier's endorsement to Carrier's cancelled check issued to Underlying Carrier, as a statement from Underlying Carrier in acceptance of payment of Carrier's liability to Underlying Carrier for not less than the lawfully prescribed value of services performed.

**6E.** Carrier reserves the right to permanently close all books of record regarding discrepancies or disputed payments to Underlying Carrier after sixty (60) days from the date of services, wherein Carrier will not acknowledge any discrepancies or disputes not brought to Carrier's attention in a reasonable amount of time, or in a reasonable form to justify Carrier's ability to audit the discrepancy or dispute.

**7A.** This Agreement will commence on the day that it is signed by the parties, and shall continue in full force until terminated by either party, by a two-week written notice from Underlying Carrier to Carrier of termination, or by Carrier upon immediate notice of breach of any terms in this Agreement without delay.

**8A.** This Agreement contains the entire understanding between the parties and supersedes, replaces, and takes precedence over any prior understanding or oral or written Agreement between the parties respecting the subject matter of this Agreement which are not fully expressed herein. No operation, procedure, plan, practice, method or custom shall in any manner vary or change the conditions of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement can be amended only in writing and executed by all parties to this Agreement, and all amendments will be treated the same as if a part of this Agreement in whole or in part.

**9A.** Underlying Carrier shall and does hereby indemnify and save harmless, Carrier from any loss, liability, damage or expense including but not limited to all attorney's fees, court costs, and collection fees which Carrier may suffer or incur from any act, or omission of act, by Underlying Carrier, or because of the failure of Underlying Carrier's insurance carrier to defend, any action against Carrier or settle any judgment against Carrier arising out of any action, incident, or other happening. This hold harmless agreement shall apply as a separate and distinct agreement, and shall not be limited by the provision of any insurance policy held by or for Underlying Carrier.