



Master Service Agreement

This Master Agreement (the "Agreement") date _____ between Manna Freight Systems, Inc., a Minnesota corporation, with its principal place of business at 2440 Enterprise Drive, Mendota Heights, Minnesota 55120 (hereinafter referred to as "Manna") and _____ (hereinafter referred to as "Service Provider"), a _____ corporation/limited liability company with its principal place of business

Address 1 _____

Address 2 _____

City/St/Zip _____

This Agreement states the understandings and agreements between Manna and Service Provider for the provision of high-quality, in-home delivery, fulfillment, warehousing, pickup and assembly services. Therefore, Manna and the Service Provider agree as follows:



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1. Introduction

- a. This Agreement sets forth the terms and conditions under which Manna shall purchase services, as set forth on the Statement(s) of Work attached hereto and incorporated herein, as added to or amended from time to time from Service Provider for the purpose of this Agreement. The terms and conditions of this Agreement shall apply to all orders tendered by Manna for the transportation or servicing of orders. Service Provider agrees that it will not broker any shipment tendered by Manna to another carrier to be transported under that carrier's operating authority without Manna's prior written consent, unless instructed to do so by Manna. In the event Service Provider breaches this prohibition against brokering a load tendered by Manna, Service Provider acknowledges and agrees that Manna shall be relieved of all responsibility for compensating Service Provider for said shipment, and Service Provider agrees to reimburse Manna for all costs, liabilities and expenses incurred by Manna as a result of Service Provider's breach of this prohibition. Moreover, in the event Service Provider fails to complete the services in accordance with the terms pursuant to which Service Provider agreed to perform the services, i.e., picking up or delivering the shipment in accordance with the scheduled appointments, Service Provider shall reimburse Manna all amounts Manna may be liable for to the shipper or consignee arising out of Service Provider's failure to perform.

2. Term

- a. The initial term of this Agreement shall be one (1) year beginning on the Effective Date. However, the agreement shall automatically renew for a successive one-year term unless a 30 day prior written notice is provided to the other party prior to the end of the initial term or any successive term.
- b. The Agreement may be immediately terminated by either party based upon any material breach of performance by the other party related to the conditions of this Agreement, including the terms of any SOW. Either party shall have the right to terminate this Agreement by providing 30 days written notice. Any notice to terminate the Agreement shall be sent by verified facsimile or by certified mail, postage prepaid.
- c. Either party may immediately terminate this Agreement by giving written notice to the other party if the other party is insolvent or has a petition brought by or against it under the insolvency laws of any jurisdiction; if the other party makes an assignment for the benefit of creditors; if a receiver, trustee or similar Service Provider is appointed with respect to any property or business of either party.



3. Indemnity

- a. Service Provider agrees to defend, indemnify, and hold harmless Manna and any of its subsidiaries or affiliates, and their respective directors, officers, employees, representatives, and customers (the "Indemnitees") from and against any and all claims, actions, demands, legal proceedings, liabilities, damages, losses, judgments, authorized settlements, costs or expenses, including without limitation reasonable attorneys' fees, (the "Damages") arising out of or in connection with any actual claims, including but not limited to:
 - i. Claims that Service Provider and/or service provided under this Agreement has caused bodily injury (including death) or has damaged real or tangible personal property;
 - ii. violations by Service Provider of any governmental laws, rules, ordinances, or regulations; and/or,
 - iii. claims arising out of Service Provider's, or its employee's or agent's acts or omissions in connection with Service Provider's performance hereunder; and
 - iv. claims by or on behalf of Service Provider's subcontractors, Service Provider, or its employees for salary, wages, benefits or other compensation, including but not limited to unemployment compensation and workers' compensation benefits.
 - v. claims for payment of freight charges by other carriers or subcontractors used by Service Provider to perform services hereunder.
- b. Notwithstanding anything else Service Provider shall assume full responsibility for any and all damages excluding inconsequential damages related to its indemnification obligation under this section 3 with respect to third parties. The provisions of this section shall survive the termination and/or cancellation of this Master Agreement.

4. Limitation of Liability

- a. Neither party, including either party's successors, heirs, or assigns, will be entitled to indirect, incidental, economic, consequential, or punitive damages, including lost profits, based on any breach or default of the other party, unless such damages are the result of the party's intentional misconduct.
- b. Service Provider shall not have any right, title, interest, ownership, or claim in the goods tendered for transportation services by or for Manna under this Agreement. Service Provider will not in any way encumber or otherwise impair Manna's right to possession of such goods, including, but not limited to, asserting any lien or withholding any goods on account of any dispute as to prices or alleged failure of Manna to pay any charges incurred under this Agreement. Service Provider waives and releases any lien or right to a lien. Service Provider shall defend, indemnify and hold harmless Indemnities (as that term is used previously in section 3.a) from all claims, losses, attorneys' fees, damages, liabilities, costs, expenses or suits arising out of or resulting from labor, materials, services or supplies furnished by Service Provider or by subcontractors or Service Providers of Service Provider and from all related liens.



- c. Service Provider Liability:
- i. Service Provider's Cargo Liability. Unless otherwise limited in the specific SOW or Schedules, the parties agree that all liability standards and burdens of proof are herein governed by 49 U.S.C. Section 14706. Manna assumes no responsibility for delivery by Service Provider of the involved freight without loss, damage, injury or delay from point of origin to point of destination. Service Provider shall be responsible for all claims for loss, damage, injury or delay. Service Provider's liability shall begin when it signs the bill of lading and has received any such goods and shall continue until such time as Service Provider receives a signed delivery receipt from the proper named consignee and nothing remains to be done by Service Provider to deliver the shipment to the consignee. The parties acknowledge and agree that Service Provider's liability be equal to the shipper's invoice value of such product(s) together with freight charges, less any salvage allowance. Notwithstanding the foregoing, Service Provider's liability shall not exceed the limits of Service Provider's cargo insurance, and any excess coverage secured on the shipment giving rise to the claim. Service Provider shall, at Manna's option and direction, and upon demand, either pay Manna directly or authorize Manna to deduct the amount of the claim from the amount Manna owes Service Provider.
 - ii. In the event Service Provider is found to be liable for any claim for loss or damage, Service Provider agrees to pay all costs incurred in returning the damaged product to the point of origin, or other points, as instructed by Manna, and/or disposing of all damaged Product as instructed by Manna, including the cost of expedited transportation service for the delivery of replacement product to Manna's Consignee. Irrespective of any provisions in Service Provider's tariffs, pricing agreements, schedules, rules, regulations or practices, Service Provider's liability for loss, damage or delay shall be governed solely by the terms of this Master Agreement.
 - iii. Service Provider's liability hereunder may not be limited by any provision purporting to limit Service Provider's liability, including without limitation, any Transport Document, common Service Provider tariff, addendum, schedule, service guide or similar document issued by or on behalf of Service Provider or any provision of any such Transport Document, tariff, addendum, schedule, service guide or similar document which Service Provider may attach to or incorporate into any Addendum or Schedule. The use of or reference to any such Transport Document, tariff, schedule, service guide or similar document or any provision(s) thereof shall not alter in any manner the terms of this Master Agreement or any additional Addendum or Schedule. In the event of a conflict between the terms of this Agreement and any Transport Document, tariff, schedule, service guide or similar document, this Agreement shall control. Willful misconduct, (as defined hereafter), fundamental material breach or conversion on the part of Service Provider, its employees, officers, directors or Service Providers shall vitiate any and all liability limitations contained in this Master Agreement.
 - iv. In the event of claim for concealed damage, i.e. a claim where the shipping container shows no visible evidence of loss or of damage, and where, at the time of delivery to the consignee, no notation was made on the delivery receipt or otherwise that a loss or damage was claimed or noted, Manna will attempt to notify Service Provider of the claim within fifteen days of the date of delivery. In the event a claim for concealed damage or loss is not made to Service Provider within fifteen days, Service Provider shall not be liable for the claim unless it can be proven conclusively that Service Provider was at fault.



- v. The provisions of 4. shall survive cancellation, termination, or expiration of this Master Agreement and any additional Addendum or Schedule.

5. Dispute Resolution

- a. Any dispute arising out of or relating to this agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and specifically those rules addressing transportation related disputes, in Minneapolis, Minnesota. Any Party involved in any such dispute may give written notice to the other of its intention to submit the dispute to binding arbitration under the Commercial Arbitration Rules. In the event that a dispute is submitted to arbitration pursuant to the Commercial Arbitration Rules, the arbitration shall be presided over by one arbitrator to be agreed upon by the parties. If parties cannot agree upon an arbitrator, an arbitrator shall be appointed by the American Arbitration Association. The decision, judgment and order of the arbitrator shall be final, binding and conclusive as to the parties involved in such dispute, and their respective affiliates, and may be entered in any court of competent jurisdiction. Subject to the provisions of paragraph 3.0, other than the fees and expenses of the arbitrator, which shall be shared equally by the parties, each party shall bear its own costs and expenses (including attorneys' fees and expenses) relating to the Arbitration.

6. Governing Law

- a. This agreement will be governed by and construed in accordance with the laws of the State of Minnesota as to the interpretation and construction of this agreement, without regard to principles of conflicts of law. Service Provider hereby consents to the jurisdiction of the federal and state courts of the State of Minnesota, U.S.A. and hereby agrees that any such court shall be a proper forum for the determination of any dispute arising hereunder.

7. Insurance

- a. Service Provider will obtain and at all times during the term of this Agreement maintain at its own expense, with insurance companies acceptable to Manna, the minimum insurance coverage stated in to this Agreement. Furthermore, Service Provider shall, within ten (10) days of the Effective Date of this Agreement, provide Manna with Certificates of Insurance evidencing compliance with this paragraph. These certificates must be faxed or mailed directly from the Insurance Provider to:

Manna Freight Systems, Inc
2440 Enterprise Drive
Mendota Heights, MN 55120
Fax #: 651.294.1035
Attn: Procurement Manager



- b. Service Provider shall provide Manna a current Certificate of Insurance naming Manna Freight Systems, Inc. as an additional insured party and evidencing the following minimum insurance coverage:
 - i. Commercial General Liability, including contractual liability coverage, with a combined single limit per occurrence of not less than one million dollars (\$1,000,000);
 - ii. Commercial Automobile Liability Insurance with minimum limits of \$750,000.00 (This is the minimum limit required by the Federal Motor Carrier Safety Administration for any vehicle with a GVWR of 10,000 pounds or more. Since assumably all of the freight tendered by Manna moves in interstate verses intrastate commerce, your carriers need to comply with the federal mandated limits);
 - iii. Employer's Liability and Worker's Compensation coverage as required by law;
 - iv. Workers' Compensation: per statutory requirements and
 - v. All Risk Cargo insurance in an amount not less than \$200,000.
 - vi. In the event of a shipment of unusual value, Manna may from time to time request that Service Provider increase its cargo insurance coverage on a per trip basis.
 - vii. The Certificate of Insurance must provide that Manna will be immediately notified of any interruption, modification, or cancellation of insurance coverage.

8. Records

- a. Service Provider will maintain accurate and legible records for a period of five (5) years and will grant to Manna reasonable access to and copies of, any information reasonably requested by Manna with respect to Service Provider's performance.

9. Non-Exclusive

- a. Nothing in this Agreement shall require Manna to purchase from Service Provider any or all of its requirements for services that are the same or similar to the Services provided hereunder. Furthermore, Service Provider agrees to cooperate and work with Manna and any other providers that Manna may engage in connection with the provision of the Services.

10. General Provisions

- a. This Agreement, together with any SOW's executed by Manna and Service Provider, represents the complete understanding between Manna and the Service Provider, supersedes any and all other agreements and understandings, whether oral or written. Each party agrees that use of pre-printed forms, including, but not limited to email, purchase orders, acknowledgements or invoices, is for convenience only and all pre-printed terms and conditions stated thereon, except as specifically set forth in this Agreement, are void and of no effect. This Agreement may not be modified, altered or rescinded except upon written consent of Manna. The individuality or unenforceability of any provision of this Agreement shall not affect the other provisions of this Agreement, but this Agreement shall be revised, construed and reformed to the fullest extent possible to effectuate the purposes of this Agreement. This Agreement shall be binding upon and inure to the benefit of Manna and the Service Provider and their respective successors



- and assigns; provided however, Service Provider shall not assign this Agreement, in whole or in part, without the prior written consent of Manna.
- b. Unless expressly amended in an Addendum, Exhibit, Attachment or Schedule, as so designated, in the event of conflict between this Master Agreement and any Addendum, Exhibit, Attachment or Schedule, the terms of this Master Agreement shall prevail.
 - c. Manna and Service Provider shall limit disclosure of information concerning this Agreement, including the transportation services to be provided and performance thereof, including Service Provider's rates and charges, and the Statements of Work and Schedules to only those Manna and Service Provider employees and subcontractors directly involved in its execution and performance and such other parties who have a specific need to know of this Agreement. Service Provider specifically agrees to keep confidential all of Manna's technical and business information which Service Provider has received or may receive as a result of this Agreement, and the Statements of Work and Schedules, and the performance thereof, and not to reveal or to divulge such information to third parties or to use or publish such information in any manner whatsoever without obtaining Manna's prior written consent; provided, however, that Service Provider shall not be bound to keep confidential any such information:
 - i. which was known to Service Provider prior to the date of the applicable SOW or Schedule from sources other than Manna.
 - ii. which is, or becomes, available to the public without fault on Service Provider's part, or
 - iii. which is disclosed to Service Provider by a party not related, directly or indirectly, to Manna, and such party has a rightful claim to such information. Service Provider shall only use Manna's technical and business information to provide the transportation and related services required under this Agreement, SOW and/or any other Schedules, and shall in no way use such information in any manner detrimental to Manna.
 - d. This provision is intended to survive the termination of this Agreement. Should any of the provisions of this Agreement be found to be unenforceable, but may be made enforceable, Service Provider agrees that the same shall be enforced to fullest extent permissible under the laws and public policies applied in the jurisdiction in which enforcement is sought.
 - e. The language of this Agreement shall be construed according to its fair meaning and shall not be construed against the party or parties drafting it.
 - f. Service Provider represents and warrants that the individual executing this Agreement on Service Provider's behalf has the authority to execute this Agreement and to bind Service Provider to the terms hereof.



11. Account Protection

- a. Service Provider understands and agrees that Manna has put forth substantial effort and investment to develop its accounts and to secure the good will of its customers. As consideration for the opportunity provided Service Provider hereunder, Service Provider agrees that neither Service Provider, nor a related or unrelated person, entity, affiliate or agent acting on Service Provider's behalf shall, during any period in which Service Provider is performing transportation services for Manna and for a period of one (1) year after the termination hereof, directly or indirectly, attempt to solicit, serve, divert or bypass, or perform any transportation or related services for compensation for any shipper or receiver where (i) such shipper or receiver first became known to the Service Provider as a result of Manna's efforts; and/or (ii) where Service Provider has not handled the freight of the shipper or receiver prior to it being tendered to Service Provider by Manna; and/or (iii) where Service Provider has not handled any freight from the shipper or receiver during the six (6) month period immediately prior to the date freight from the shipper or receiver is first tendered by Manna, unless otherwise agreed to advance by Manna in writing. This provision shall survive the termination of this Agreement.

12. Remedies

- a. Service Provider acknowledges that breach of the provisions of this paragraph will cause Manna irreparable harm that is not fully remedied by monetary damages. Accordingly, Service Provider agrees that Manna shall, in addition to any relief afforded by law, be entitled to temporary, preliminary or permanent injunctive relief in the event of a breach or threatened breach of this Agreement, without bond or security and irrespective of the availability of legal relief in damages. In the event Manna becomes aware of a breach by Service Provider of the provisions of this paragraph, Manna agrees to provide Service Provider with written notice the alleged breach and Service Provider agrees to meet and confer with Manna to discuss the alleged breach and corrective actions to be taken. In the event of the continued breach, Manna may, but shall not be required to, seek injunctive relief and/or any other remedy allowed at law, in equity or under this Agreement. In connection with any suit at law or in equity by Manna under this paragraph, Manna shall be entitled to an accounting, and to the repayment of all profits, compensation, commissions, fees or other remuneration which Service Provider or any other entity or person has either directly or indirectly realized on its behalf or on behalf of another and/or may realize, as a result of, growing out of, or in connection with the violation by Service Provider which is the subject of the suit. Provider further agrees that Manna shall be entitled to recover its costs of litigation and reasonable attorney's fees incurred in connection with such action.



13. Continuation

- a. It is agreed that this Agreement is continuing in nature and binding upon Service Provider, and its affiliates, agents, successors, heirs, executors, administrators, assigns, and representatives. Service Provider acknowledges and agrees that Service Provider fully understands the scope of this paragraph and that they are not unduly burdensome, and are necessary to protect the legitimate business interests of Manna, and its customers both current and prospective. This provision is intended to survive the termination of this Agreement.

14. Relationship of the Parties

- a. In the performance of transportation services hereunder, Service Provider shall be an independent contractor and not an agent or employee of Manna. Service Provider represents and warrants that the driver or drivers utilized herein are competent and properly licensed drivers and are fully informed concerning their responsibilities for the protection and care of the involved goods. Service Provider agrees to pay all employee/independent contractor compensation and to be responsible for worker's compensation coverage, if required by law, and all taxes (state and federal) based on said compensation, and Service Provider agrees to indemnify and hold Manna and its customers harmless from and against any claims by drivers for compensation, and/or unemployment and workers' compensation benefits. Service Provider further agrees to provide and maintain in good working condition and suitable appearance the equipment necessary to fulfill this Agreement and to furnish all necessary fuel, oil, gasoline, tires and repairs for the operation of said equipment and to pay all expenses incidental to such operation, including but not limited to, any fines or penalties incurred performing hereunder, including overweight fines. Service Provider agrees that in no instance shall Manna be responsible for any of the above payments. Service Provider represents that the transportation rendered hereunder will be performed without violating any local, state and federal regulations governing the operation of said vehicle, including but not limited to the Department of Transportation.
- b. Service Provider further acknowledges and agrees that Manna is an independent contractor as to its customer, and is not the agent of any customer. Accordingly, Service Provider agrees that it shall not look to the customers of Manna under any circumstances for payment of freight charges. On all shipments arranged to be shipped by Service Provider pursuant to this Agreement, Service Provider shall bill all freight charges to Manna. Any violation of this billing condition shall result in the forfeiture of fifty (50%) percent of the freight charges on the shipment billed in violation of this provision.



IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

MANNA FREIGHT SYSTEMS, INC.

Service Provider

Authorized Signature

Authorized Signature

Printed Name

Printed Name

Title

Title