

# INDEPENDENT CONTRACTOR AGREEMENT FOR TRUCKING SERVICES

## THE PARTIES:

NEW Cooperative, Inc. [*“NEW Coop”*]  
2626 1<sup>st</sup> Avenue South  
Fort Dodge, IA 50501

\_\_\_\_\_ [*“Contractor”*]

Print full legal name (individual or entity)

\_\_\_\_\_

Address

\_\_\_\_\_

Cell Phone

\_\_\_\_\_

SSN or EIN (MUST MATCH OWNERSHIP OF EQUIPMENT)

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For the consideration set forth herein, the Parties agree as follows:

1. SERVICES.

NEW Coop hereby retains Contractor to haul the following items [each a *“Product”*]:

- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> feed ingredients | <input type="checkbox"/> fertilizer |
| <input type="checkbox"/> finished feed    | <input type="checkbox"/> grain      |

2. EQUIPMENT.

- a. Contractor shall provide its own:  Semi-Tractor  trailer  
 will use NEW Coop trailer
- b. Contractor’s Semi-Tractor shall be properly licensed and capable of pulling a \_\_\_\_\_ ton capacity trailer for the transfer of the above-identified Product from NEW Coop’s facilities to various customer locations.
- c. Contractor’s trailer shall have the following specifications:  
\_\_\_\_\_  
\_\_\_\_\_.
- d. If Contractor is leasing its trailer from NEW Coop check here  and attach executed Lease Agreement.

[Hereinafter, the term *“Equipment”* shall be used to refer to all trailers and Semi-Tractors used by Contractor in carrying out the services hereunder, whether owned by NEW Coop or by Contractor.]

3. OPERATING REQUIREMENTS.

- a. Contractor, including every person operating the Equipment for or under the direction of Contractor, whether as an employee, subcontractor, agent, or otherwise (hereinafter an *“Agent”*) shall be required to have a valid CDL with the following endorsements at all times:  
\_\_\_\_\_.

In addition, prior to operating the Equipment, all persons operating the Equipment shall provide NEW Coop with the following:

- Current MVR (or consent to obtain same)
  - Current medical card
  - A Certificate of Insurance confirming the coverages required under paragraph 13 below.
- b. Contractor shall be solely responsible to keep the Equipment clean and in good working order in compliance with all applicable state and federal requirements. Contractor shall also be solely responsible for all fuel, licensing, tires and other operating and maintenance expenses related to the Equipment, whether owned by Contractor or NEW Coop.
- c. NEW Coop shall provide all necessary licenses for its trailers. trailers provided by NEW Coop shall be specifically assigned to the Contractor, and the Contractor will use only that trailer unless it is out-of-service.
4. OPERATING EXPENSES. Contractor agrees to assume responsibility for and shall pay all costs of operation for the Equipment, which shall include but not be limited to the following: (a) maintenance, repairs, fuels, lubricants, tires, etc.; (b) licenses and registration fees (except for Equipment owned by NEW Coop); (c) wages or other remuneration of operators, drivers and helpers; (d) worker's compensation, unemployment insurance, social security or other similar taxes, insurance or benefits on the operator, drivers and helpers and in connection therewith Contractor shall make all payroll, tax or other deductions required by any applicable law or regulation; (e) premiums for bodily injury and property damage liability insurance on the Equipment in amounts required under Paragraph 13; (f) payments for injury or damages to the operators, drivers and helpers and to the Equipment whether the same occur while the Equipment is being operated in the service of NEW Coop or otherwise; (g) premiums for insurance coverage for collision, fire, theft or other occurrence or catastrophe; (h) claims for damage to cargo or property caused by the fault or neglect of Contractor, including any deductible amounts which are not covered by NEW Coop's cargo insurance; (i) damages to NEW Coop's Equipment or facilities caused by the fault or neglect of Contractor, including any deductible amounts which are not covered by NEW Coop's property damage insurance; (j) fines and penalties arising out of the use of the Equipment when the violations result from the acts or omissions of the Contractor; (k) certified physician's certificate issued by a qualified physician showing that all drivers are qualified under applicable laws; (l) NEW Coop's cost of furnishing substitute equipment in the event of an accident or breakdown involving the Equipment, and the cost of storage of the cargo, if necessary.

In the event NEW Coop pays any of Contractor's aforesaid costs of operations, such payments shall be considered an advance to Contractor and NEW Coop is authorized to deduct the full amount of the advances from any monies due or becoming due to Contractor.

5. ORDERS/DELIVERY INSTRUCTIONS. NEW Coop shall provide Contractor with instructions identifying the specific type and quantity of Product to be delivered hereunder, the NEW Coop facility of origin, and delivery instructions. Contractor shall then promptly pick up and deliver all the Product to NEW Coop's customer. Contractor shall not make delivery arrangements directly with a customer. If Necessary NEW Coop shall provide forms for Contractor to keep record of all deliveries made hereunder.
  
6. WORK SCHEDULE/HOURS OF SERVICE: Contractor is not obligated to take any Product loads. Upon accepting a delivery order, NEW Coop will rely upon Contractor and his Agents to put in such number of hours as is reasonably necessary to fulfill the obligations required to complete the delivery. Contractor expressly acknowledges that NEW Coop is not guaranteeing Contractor any minimum number of loads to be delivered hereunder, and all loads shall be directed to Contractor at the sole discretion of NEW Coop.
  
7. PAYMENT PROCEDURE:
  - a. Compensation. NEW Coop will pay Contractor for its services according to rates established based on the load type and distance. The rates are subject to change by NEW Coop upon thirty (30) days' notice to Contractor.
  - b. Weekly Log Sheet. Upon request, Contractor shall provide weekly log sheets to NEW Coop on Monday of each week (on forms to be supplied by NEW Coop) detailing the deliveries for the preceding week.
  - c. Payment. NEW Coop shall pay to Contractor by each Friday the amount due for the preceding week's deliveries based on the weekly log sheets.
  - d. Reports. Contractor, when requested by NEW Coop, shall provide written reports detailing the services rendered hereunder.
  - e. Expenses. NEW Coop shall not be liable to Contractor for any expenses paid or incurred by Contractor in carrying out his duties hereunder, unless otherwise agreed to in writing.
  
8. TAX OBLIGATIONS AND LIABILITIES. Contractor understands that it is responsible to pay its own income taxes for all amounts paid to Contractor hereunder. Contractor understands and agrees that NEW Coop will not withhold nor pay any employment taxes (FICA/Social Security Taxes; Federal and State Income Taxes; Federal and State Unemployment Taxes) for Contractor or Agents with respect to the amounts paid to Contractor hereunder. NEW Coop will not provide Contractor or its Agents with any health and accident insurance, life insurance or other insurance, or any other fringe benefits such as paid vacation.

9. WORKERS' COMPENSATION AND TAXES.
- a. Contractor agrees to assume responsibility for and to purchase, maintain, and keep in force Workers' Compensation and employer's liability insurance at its own expense, for his own benefit and that of drivers and/or helpers employed by him, in such scope, amount, and form of coverage as is satisfactory to NEW Coop and to provide NEW Coop with evidence of said protection. Pertinent information concerning the insurance is set forth on Scheduled B and C attached hereto. In the alternative, if Contractor does not provide evidence of said protection, NEW Coop may, at its option, provide said Workers' Compensation and employer's liability insurance at Contractor's expense and Contractor agrees to execute all necessary forms in connection therewith. In the event Contractor does not provide evidence of said protection and NEW Coop does not elect to provide such insurance, Contractor agrees to waive the right to make a claim against NEW Coop for worker's compensation.
  - b. Contractor agrees to indemnify, defend and hold NEW Coop harmless from any and all claims, suits or other liability arising out of, based upon or incurred because of Contractor's failure to keep in force Workers' Compensation and employer's liability insurance. The term Agent when used herein includes drivers, escorts, flagmen, helpers, or any other employees required by Contractor to perform the services covered by this Agreement. In no event shall NEW Coop be held responsible for any liability of Contractor arising under any Workers' Compensation Act or employer's liability law.
10. COMPLIANCE WITH LAWS AND POLICIES.
- a. Contractor and its Agents shall comply with all federal, state and local laws and regulations in the performance of the services provided for in this Agreement, including specifically all rules and regulations applicable to the ownership and operation of the Equipment.
  - b. Contractor and its Agents shall observe all policies of NEW Coop that affect the services rendered hereunder, which policies NEW Coop shall communicate to Contractor.
  - c. Contractor shall also be responsible to observe any biosecurity policies of NEW Coop or its customers in effect at the delivery sites, which may include truck washing and the use of protective shoes and clothing. NEW Coop will notify Contractor of such policies.
  - d. Contractor shall immediately report any accidents which involve services being rendered under this Agreement.
11. CONFIDENTIAL MATTERS AND PROPRIETARY INFORMATION.  
Contractor recognizes that during the course of performing services for NEW Coop, it may acquire knowledge of confidential business information or trade secrets. Contractor agrees to keep all such confidential information in a secure

place and not to publish, communicate, use, or disclose, directly or indirectly, for its own benefit or for the benefit of another, either during or after the term of this Agreement, any such confidential business information or trade secrets. Upon termination or expiration of this Agreement, Contractor shall deliver any sales data, customer lists, notes, other records, data and information and all other documents it may have acquired during the performance of this Agreement (and all copies thereof) to NEW Coop. Such material shall remain the property of NEW Coop. Contractor agrees to make its Agents aware of this paragraph 10, which shall be binding on such Agents to the same extent as Contractor. This obligation of confidence shall not apply to information that (a) is available to Contractor from third parties on an unrestricted basis; or (b) is disclosed by NEW Coop to others on an unrestricted basis.

12. OTHER CONTRACT SERVICES; CONFLICTS OF INTEREST. Contractor and its Agents may perform delivery and trucking and hauling services for other parties during the term of this Agreement; PROVIDED, NEW Coop-owned Equipment shall not be used by Contractor for such purposes; AND FURTHER PROVIDED that if Contractor elects to use Contractor's own Equipment to provide trucking services for any other competitor or supplier of NEW Coop, NEW Coop shall have the right to terminate this Agreement if it reasonably believes such arrangement poses a risk to NEW Coop's proprietary information.
13. INSURANCE. Contractor shall at all times maintain in force the insurance coverages set forth on attached:
- Schedule B (non-hazardous cargo)
  - Schedule C (hazardous cargo)
- with a carrier or carriers acceptable to NEW Coop.

ALL SUCH INSURANCE POLICIES SHALL NAME NEW COOPERATIVE, INC. AS AN ADDITIONAL INSURED.

- Within five (5) days of the date of execution of this Agreement and at any time during the term of this Agreement upon request of NEW Coop, Contractor shall provide NEW Coop with duplicate policies of insurance as set forth in this paragraph, together with certificates or receipts showing that the insurance policies are in force and fully paid.
  - Each such policy shall contain a provision to the effect that it may not be canceled except upon thirty (30) days prior written notice to NEW Coop.
  - Contractor's insurance shall be primary and non-contributing over NEW Coop's.
  - All Contractor policies shall include subrogation waiver in favor of NEW Coop.
14. TERM OF AGREEMENT/TERMINATION. This Agreement shall be effective when signed by Contractor, and shall continue in effect for an initial term of twelve (12) months. Thereafter, this Agreement shall automatically continue in

effect for additional 12 month terms unless terminated by either party upon thirty (30) days' written notice. PROVIDED, this Agreement may be terminated immediately by NEW Coop for cause (including but not limited to misconduct or breach of any provision herein by Contractor or its Agents). All indemnification provisions herein shall survive termination of this Agreement.

15. RELATIONSHIP OF THE PARTIES.

a.) This Agreement does not create any form of partnership, joint venture, or other legal relationship other than Contractor as an independent contractor. Contractor shall not act as an agent of NEW Coop or bind NEW Coop in any manner.

b.) This Agreement provides for the performance services of Contractor and its Agents strictly on an independent contractor basis, and neither Contractor nor any Agents of Contractor providing assistance with the services shall be considered an employee of NEW Coop for any purpose. Contractor hereby waives any claim of right to receive any benefits as an employee of NEW Coop. This waiver is effective independently of Contractor's employment status as may be adjudged for any purpose.

16. INDEMNIFICATION.

Contractor agrees to indemnify, defend and hold NEW Coop harmless from any and all claims, suits, losses, fines, damages, or liability arising out of, based upon or incurred because of the injury or death of any person or persons, including Agents, or damage to property, including the Equipment, or loss of or damage to cargo sustained or which may be alleged to have been sustained by reason of any act or omission, or alleged act or omission on the part of NEW Coop or Contractor or its Agents, arising out of the use of the Equipment. This indemnification shall include any actions brought by any regulatory agency or other parties alleging any violation of law by NEW Coop resulting from this Agreement. Contractor also agrees to indemnify, defend and hold NEW Coop harmless from all legal fees and expenses which may be incurred by NEW Coop in connection with the defense of any claims, etc. arising under this Agreement. NEW Coop may withhold payment of any and all sums due to Contractor, to the extent of such loss, damage, liability, suits, fines or claims, which amounts shall then be deducted for the satisfaction thereof.

17. MISCELLANEOUS PROVISIONS.

a. Assignability. This Agreement shall not be subcontracted, transferred or assigned, in whole or in part, by Contractor without the prior written consent of NEW Coop, which consent may be withheld at NEW Coop's sole discretion. Nor shall Contractor sublease any Equipment to another party for use under this Agreement without NEW Coop's consent.

b. Applicability to Agents. Any reference to "Contractor" hereunder shall be deemed to apply with equal affect to any Agent of Contractor, and Contractor shall be responsible to ensure that its Agents are familiar with the terms of this Agreement.

- c. Choice of Law. Any dispute under this Agreement or related to this Agreement, shall be decided in accordance with the laws of the State of Iowa, and jurisdiction and venue shall be exclusively in the District Court in and for Webster County, Iowa.
- d. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- e. Entire Agreement. This Agreement supersedes all prior or written agreements, if any, between the parties and constitutes the entire agreement between the parties. The Agreement can not be changed or modified orally. This Agreement may be supplemented, amended, or revised only by a written document signed by all parties.

NEW Cooperative, Inc.

Contractor

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(print title if not sole proprietorship)

\_\_\_\_\_

Date

\_\_\_\_\_

Date