

HAULER AGREEMENT WITH INDEPENDENT CONTRACTORS

This agreement is made and entered into on (“Effective Date”) by and between Arizona Grain, Inc. (hereinafter known as Company) and _____, (hereinafter known as Hauler).

Whereas, Company is engaged in the transportation of grain, feed, and seed and has a need to contract with individuals or companies engaged in the business of providing transportation services and equipment on a sub-contract basis; and

Whereas, hauler is an independent business person engaged in the business of hauling merchandise by motor truck under a permit issued by the Arizona Department of Transportation as may be required and is the operator and owner or in otherwise lawful possession of certain motor truck equipment adequate for the needs of providing transportation services a herein contemplated; and

Whereas, Hauler is desirous of rendering transportation services by contract for Company at mutually agreeable rates as hereinafter set forth.

Now, therefore, in consideration of the mutual promises and agreements hereinafter set forth:

WITNESSETH

1. It is the express intention of the parties hereto that Hauler is an independent contractor and not an employee, agent, joint venture or partner of Company for any purposes whatsoever. Company shall have no right to, and shall not control the manner or prescribe the method of accomplishing those services which shall be contracted to and performed by Hauler pursuant to this agreement. None of the provisions of this agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Company and Hauler or any driver, agent, servant or other employee of Hauler.

2. Hauler agrees to provide transportation services for such shipments as Company may from time to time tender. In consideration of said transportation services Company agrees to pay Hauler the rates set forth in the Rate Schedule, or a negotiated rate for specific hauling services. Any changes in the rate schedule shall be communicated to all eligible haulers prior to the effective date. It is further agreed and understood that Company is under no obligation to tender any shipments to Hauler for transportation. Insofar as shipments are tendered to Hauler for transportation, the terms of this agreement shall apply.

3. Company agrees to pay fuel surcharges per loaded mile indexed to the U.S Energy Information Administration’s published diesel fuel prices for the West Coast. The average fuel price of the preceding month is used to determine the surcharge for the each month’s hauling, applied to the scale in APPENDIX “A”.

4. The initial term of this agreement will be for a period of 1 year from the Effective Date and may be renewed for additional 1-year terms upon the written agreement of both parties.

5. Hauler shall pay all costs and expenses incidental to the performance of the transportation services except as otherwise provided herein, and shall defend, indemnify, and hold Company harmless against any claim, loss, damage or expense that may arise in connection with the transportation of the tendered commodities. Hauler shall pay on behalf of Company any judgments rendered in connection with such claim, loss, damage or expense, as well as providing Company with (or at the Company's choice, reimbursing Company for) a defense against such claims. Hauler represents and warrants that the equipment owned or possessed and operated by Hauler is fully licensed for operation in the State of Arizona and that Hauler has complied with all of the required licensing conditions set forth by any governmental agency of the State of Arizona or the federal government. Hauler agrees that it is responsible for conforming to all of the laws, rules and regulations of the various regulatory bodies of the State of Arizona and the federal government as may from time to time be applicable regarding the operation of the equipment involved and/or the shipments tendered. Hauler shall defend, indemnify, and hold Company harmless from and against any claim, loss, damage, or expense related to a violation of any such requirements, laws, rules or regulations. Hauler shall pay on behalf of Company any judgments rendered in connection with such claim, loss, damage, or expense, as well as providing Company with (or at the Company's choice, reimbursing Company for) defense of such claims.

6. Subject only to requirements imposed by law, Hauler shall direct the operation of the equipment used in the performance of this agreement. Among other things, Hauler shall determine:

- (a) How the vehicle is to be loaded, tied down, and unloaded.
- (b) Selection of routes.
- (c) Rest stops
- (d) Where the vehicle is to be repaired.
- (e) Selection of gas and oil stops.
- (f) Whether Hauler or its employees should hire additional labor to load or unload the goods at pick-up and destination points.
- (g) Hauler's own working hours.
- (h) Hauler's employees' working hours, compensation, and condition of employment.
- (i) Which insurance company will provide insurance coverage.
- (j) And, the method of financing vehicle or vehicles.

7. Contractor's Policy:

- a. Hauler is expected to adhere to safety rules, laws and practices and comply with all federal, state and local laws. These include but are not limited to regulations promulgated by: OSHA, CALOSHA, EPA, DOT, DOE, NRC.
- b. For safety purposes, designated routes are often marked for trucks picking up or delivering grain, feed, and seed. Haulers should ask for instructions on specific routes and adhere to those instructions at all times.
- c. Smoking cigarettes (including e-cigarettes) is not permitted at any time while on Arizona Grain property.
- d. Hauler must comply with Arizona Grain's speed limit restriction of 10 miles per hour on company property.

- e. Spills of hydraulic fluid, oil and other petroleum products must always be immediately cleaned up to prevent discharge of these fluids with storm water run-off. Hauler is solely responsible for cleaning up and properly disposing of all spilled pollutants brought to the site as part of the contractor's work, including oil, paint, fuels, antifreeze, solvents, etc. in accordance with applicable laws and regulations. Contractor must keep accurate records (such as receipts, copies of analytical results, etc.) indicating proper disposal of spilled materials in accordance with applicable laws and regulations.
- f. The maximum gross weight of trucks loaded on Arizona Grain property is 80,000 pounds.
- g. Haulers hired by Arizona Grain for pickup of distiller's products at Pinal Energy will need a load number to enter the plant and obtain the load.
- h. To assure product availability of grain and feed at all locations, Arizona Grain requests that customers contact the Dispatcher before 2:00 pm on the prior day. Haulers entering the plants without dispatch notification may not be able to obtain a load.

8. Sanitary Transportation of Human and Animal Food:

Hauler's Vehicles and transportation equipment must be designed and of such material and workmanship as to be adequately cleanable for their intended use to prevent the food from becoming unsafe/adulterated during transportation operations. They must be maintained in such a sanitary condition as to prevent the food from becoming unsafe (cleaning pumps and hoses to remove allergens, disposing of damaged, jagged pallets etc.).

The equipment must be stored in a manner as to prevent the vehicles or equipment from harboring pests, or to prevent the food from becoming unsafe.

Transportation operations - Responsibility for ensuring that transportation operations are carried out in compliance with all requirements of regulation must be assigned to competent supervisory personnel. And all transportation operations must be conducted under such conditions and controls necessary to prevent food from becoming unsafe including:

- a. Measures such as segregation or isolation to prevent contamination by raw food and non-food items in the same load.
- b. Measures such as segregation, isolation, or other protective measures, such as hand washing to protect food transported in bulk vehicles or food not completely enclosed by a container from contamination and cross-contact during transportation operations.
- c. Ensuring that food is transported in a manner to prevent unsafe food.
*Note – packaging of the product can count as segregation or isolation, and does not necessarily mean location in a separate compartment.

Arizona Grain will specify to the carrier, and when necessary, the loader, in writing, all necessary sanitary requirements for the carrier's vehicle and transportation equipment including specific design requirements and cleaning procedures. (Refer to Memorandum to Carrier, September 1, 2017 – Appendix B)

Before loading food not completely enclosed by a container onto a vehicle or into transportation equipment provided by a carrier, Arizona Grain personnel will visually inspect vehicle/equipment for cleanliness and determine if it is in appropriate sanitary condition (e.g. free of visible evidence of pest infestation and of debris, previous cargo, or dirt that could cause the food to be adulterated).

Arizona Grain will provide vehicle operators who are expected to handle food not completely enclosed by a container during unloading and loading with convenient access to a hand washing facility. Operators will carry out loading and unloading operations under conditions that prevent unsafe food.

9. Hauler will be paid within 7 business days after Company's receipt of a properly receipted Bill of Lading or other written shipping documents and hand tags covering the transported shipment or shipments.

10. Hauler agrees to perform all transportation services for shipments tendered within a reasonable time, recognizing that time is of the essence.

11. Hauler, at Hauler's own cost and expense, shall provide equipment that is in good operating condition and is sufficient to provide timely and complete services under this agreement. Company shall not be liable in any way for any costs of operating or maintaining said equipment, including but not limited to maintenance costs and licensing fees.

12. Labor:

- a. Hauler shall furnish at its own discretion, selection, and expense any labor required to perform its obligations under this agreement.
- b. Hauler shall be solely responsible for the direction and control of the employees, agents and servants of Hauler, if any, performing labor pursuant to subparagraph A, hereinabove, including their selection, hiring, firing, supervision, assignment and direction, the setting of wages, hours, working conditions, and the adjustment of their grievances. Hauler shall determine the method means and manner performance of the work or its employees, agents and servants, if any, and their performance of the agreement.
- c. Hauler assumes full and sole responsibility for the payment of wages, benefits and expenses of its employees, if any, and for all state and federal income tax withholdings, unemployment insurance, and Social Security taxes as to all persons employed by Hauler in the performance of services under this agreement, and Hauler shall be responsible for meeting and fulfilling the requirements of all regulations now or hereafter prescribed by legally constituted authority with respect thereto. Company shall not be responsible for the wages, benefits, or expenses due Hauler's employees, agents or servants, nor for income tax withholdings, Social Security, unemployment, or other payroll taxes of the Hauler's employees, agents, or servants. Hauler shall defend, indemnify and hold Company harmless from and against any and all claims, losses, damages, and expenses that may arise out of Hauler's failure to comply with this subparagraph C. Hauler shall pay on behalf of Company any judgments rendered in connection with such claim, loss, damage or expense, as well as providing Company with (or at the Company's choice, reimbursing Company for) defense of such claims.
- d. Hauler assumes full responsibility for maintaining adequate worker's compensation insurance coverage for Hauler and all of its employees, agents and servants, whom

Hauler employs in the performance of this agreement. Hauler shall defend, indemnify, and hold Company harmless from and against any and all claims, losses, damages, or expenses that may arise out of Hauler's failure to comply with this subparagraph D. Hauler shall pay on behalf of Company any judgments rendered in connection with such claim, loss, damage or expense, as well as providing Company with (or at the Company's choice, reimbursing Company for) defense of such claims.

- e. All pay, benefits and working conditions of Hauler's employees are a matter of agreement solely between Hauler and its employees. Hauler and Hauler's employees shall receive no vacation or holiday pay from Company and they shall not participate in any welfare plans or other Company benefits enjoyed by Company's employees. Company shall have no obligation or responsibility to Hauler or Hauler's employees, agents or servants for any fine, cost or expense incurred by Hauler or any of its employees by reason of Hauler's failure to have proper markings on its equipment, or by reason of any violation by Hauler or its employees of any law, rule, ordinance, or regulation of any and all governmental authority or authorities in and through whose jurisdiction Hauler or its employees may be operation in the performance of this agreement.

13. Hauler agrees to defend, indemnify, and hold Company harmless from and against all claims, losses, damages, or expenses that may arise out of the injury to (or death of) persons, or damage to property caused or alleged to be caused by or in connection with the operation of any equipment belonging, controlled and used by Hauler, his agents, employees, and/or containers transported thereon. Hauler agrees to pay on behalf of Company any and all judgments rendered in connection with such claim, loss, damage, or expense, as well as providing Company with (or at the Company's choice, reimbursing Company for) defense of such claims. In the event of any claim, loss or damage as herein set forth, Company shall have the right to withhold payment of any sums due Hauler until such claim, loss or damage has been settled or until Company shall be reasonably satisfied that Hauler has sufficient insurance to cover said claim, loss or damage.

14. Hauler agrees to obtain and continue in effect during the term of this agreement the following insurance coverages, with carriers reasonably acceptable to Company:

- a. Worker's compensation and occupational disease insurance (statutory limits complying with the laws of the State of Arizona) and employer's liability insurance with the following limits, or Hauler's policy limits, **whichever is greater**:
 - Bodily Injury by Accident \$1,000,000.00 each accident
 - Bodily Injury by Disease \$1,000,000.00 policy limit
 - Bodily Injury by Disease \$1,000,000.00 each employee

Such policies shall contain a waiver of subrogation in favor of Company.

Such insurance shall be in strict accordance with the applicable workers' compensation laws in effect during performance by Hauler pursuant to this agreement.

Hauler shall require each of its sub-Haulers to likewise purchase and maintain, at their expense, workers' compensation and employer's liability insurance meeting the same limits and requirements as indicated herein, including the same waiver of subrogation in favor of Company.

b. Commercial General Liability (CGL) with a combined Bodily Injury and Property Damage limit of not less than:

- One million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage and personal & advertising injury,
- Two million dollars (\$2,000,000.00) general aggregate. The aggregate must be applicable on a per project basis,
- Two million dollars (\$2,000,000.00) products/completed operations aggregate, or limits carried, **whichever is greater**.

CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage; "modified occurrence" and "claims made" are not acceptable) and must include, without limitation, the following:

1. Broad form blanket contractual liability coverage for liability assumed under this agreement;
2. Completed operations / products liability coverage, which shall continue up to and including the final date upon which any applicable statute of limitation and/or statute of repose shall elapse and expire;
3. Broad form property damage coverage;
4. Personal and advertising injury liability coverage;
5. Premises-operations coverage;
6. Coverage for independent contractors;
7. "Action over" coverage;
8. Duty to defend in addition to (without reducing) the limits of the policy;
9. Severability of interests (full separation of insureds).

Endorsements must be furnished reflecting the inclusion of the interests of Company, its officers, directors, partners, representatives, agents and employees, and naming each as an Additional Insured on a primary and noncontributing basis. Such coverage shall be afforded to the same extent it is afforded to Hauler and shall not be subject to any exclusion, limitation or condition to which the coverage afforded Hauler is not also subject.

Hauler shall require each of its sub-Haulers to likewise purchase and maintain, at their expense, general liability insurance, workmen's' compensation insurance, or a valid waiver, meeting the same limits and requirements as indicated herein.

c. Commercial Automobile Liability Insurance, including, without limitation, liability arising out of all owned, non-owned, leased and hired vehicles, trucks and trailers, or semi-trailers, including any machinery or apparatus attached thereto, with limits not less than one million dollars (\$1,000,000.00) each accident, or limits carried, whichever is greater.

Such coverage shall be written on the most recent edition of ISO form CA 00 01 (or a substitute form providing equivalent coverage) and shall include, without limitation, contractual liability coverage. Endorsements must be furnished reflecting the inclusion of the interests of Company, its officers, directors, partners, representatives, agents and employees, and naming each as an Additional Insured on a primary and noncontributing basis.

Hauler shall require each of its sub-Haulers to likewise purchase and maintain, at their expense, automobile liability insurance meeting the same limits and requirements as indicated herein.

d. Umbrella / Excess Liability Insurance with a limit of no less than one million dollars (\$1,000,000) per occurrence. Umbrella / Excess coverage must be at least as broad as the primary general liability insurance.

e. Cargo insurance with limits adequate to cover the full replacement value of all tendered shipments.

15. A sole proprietor waiver can be filed by a single-person entity hired to do a specific job by Company. The waiver is an acknowledgment of the fact that the person listed is not an employee of Company. The waiver allows only that person to work on Company's property without providing proof of worker's compensation coverage. The only person for whom the worker's compensation requirement is waived is the sole proprietor. They may not have anyone else working for them or on their behalf. The sole proprietor must also be the person signing all documentation, including but not limited to scale tickets and delivery receipts. The waiver and requested documentation must be received by Company prior to any work being performed by the sole proprietor. A waiver must be signed and on file with Arizona Grain. If the hauler's status of sole proprietor changes, Arizona Grain must be notified and the additional insurance requirements must be on file before any other loads are hauled. If Arizona Grain believes that a registered sole proprietor is operating in violation of sole proprietor designation, it may ask for an affidavit with truck and trailer numbers and sole driver information to keep on file.

16. Hauler shall have the right to perform services similar or identical to those performed under this agreement for other companies or for itself

17. This agreement may only be amended by a writing specifically referencing this agreement that has been signed by authorized representatives of both parties.

18. Neither party may assign their rights or delegate or subcontract their duties under this agreement to third parties without the prior written consent of the other party, which consent shall not be unreasonably withheld.

19. This agreement will be deemed to have been made in the State of Arizona, and will be construed and enforced in accordance with the laws of the State of Arizona, without reference to principles of conflicts of laws thereof. The parties hereby consent to the jurisdiction of the courts by or for the State of Arizona in connection with any action or proceeding relating to this agreement.

20. If any term in this agreement is found by competent judicial authority to be unenforceable in any respect, the validity of the remainder of this agreement will be unaffected.

21. This agreement represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreement or understanding, written or oral.

22. This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives.

Arizona Grain, Inc.:

Hauler:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

HAULER AGREEMENT APPENDIX "A"

Arizona Grain implemented a fuel surcharge payment to qualified haulers in February of 2011, in response to the increase in diesel fuel and the volatility of the fuel markets.

Our surcharge was, and remains, indexed to the U.S Energy Information Administration's published diesel fuel prices for the West Coast. The average fuel price of the preceding month is used to determine the surcharge for the each month's hauling, applied to the scale below.

EIA Retail Diesel Fuel West Coast Average Price/Gallon	Surcharge in Cents per Mile
< \$3.00/gal	-
\$3.01 - \$3.50/gal	0.08
\$3.51 - \$4.00/gal	0.16
\$4.01 - \$4.50/gal	0.24
\$4.51 - \$5.00/gal	0.32

We will continue to pay the fuel surcharge to qualified haulers on this scale, but beginning June 1, 2014, the surcharge will only apply to the loaded miles. In addition, the mileage used in the surcharge will be calculated using the shortest route, as verified by Google Maps or a similar software.

HAULER AGREEMENT APPENDIX “B”



MEMORANDUM

TO: ALL SUPPLIERS AND CARRIERS THAT SERVICE ARIZONA GRAIN

Effective: September 1, 2017

In order to meet our company’s requirements for Sanitary Transportation of Human and Animal food, Arizona Grain will require all bulk truck drivers (including Farm carriers, and carriers of \$500,000 in average annual revenue or less) hauling ingredients/commodities into our facilities to provide the following:

1. Correct unload number
2. BOL for current load in trailer
3. BOL or unload ticket from prior load hauled in same trailer
4. Wash out ticket or sweep verification prior to loading current load (if required based on last load hauled.)

Starting September 1, 2017, if all documentation cannot be presented upon initial check-in, the load will be rejected.

Incoming BOL Requirements	Previous Haul BOL Requirements
Supplier Name	Company heading or stamp with supplier name and contact information
Supplier Contact Information	Product Hauled
Product Hauled	Date and Time Loaded
Date and time loaded	Trailer Number
Trailer Number	Driver’s Signature
Driver’s Signature	Date Received or date receiving company signed

Previous Commodity Requirements

Previous load hauled must meet one of the following:

1. Intended for Food Production (Animal or Human)
2. Low Risk Non-Feed Ingredient: Untreated Wood Products (bark, chips, mulch), rock products, road salt, sand, ammonium sulfate fertilizer, urea fertilizer, potassium chloride fertilizer, monophos fertilizer, gypsum (calcium sulfate), dolomite, dried poultry liter

Wash Ticket Requirements / Sweep out Verification

A wash out will be required if the previous haul meets any of the following requirements:

1. Products/Commodities containing prohibited material or restricted use protein products.
2. Medicated Feed
3. All Low Risk Non-Feed ingredient as listed above
4. New trailer being used for the first time
5. Critical Bulk ingredient (CBI) – Feed Grade Mono-Dicalcium Phosphate, Salt, Magnesium Oxide, Urea, Sodium Bicarbonate, Calcium Carbonate, Calcium Sulfate, Optigen, Min-Ad, Sodium Sesquicarbonate
6. Previous cargo or dirt that could cause the food to be adulterated.

If a wash is required, the wash ticket will meet the following minimum requirements:

1. Header with wash station identification (Company name, address, phone number)
2. Date and time of wash
3. Trailer Number
4. Driver’s signature