



205 Tunnel Drive
 719-269-1173
 SCALE HOUSE
 719-275-6746

Canon City, CO 81212
 719-269-1148 (Fax)
 719-275-8196 (Fax)

INDEPENDENT CONTRACTOR HAULER AGREEMENT

This Independent Contractor Hauler Agreement between Tezak Heavy Equipment Co., Inc., a Colorado Corporation, whose business office and mailing address is 205 Tunnel Drive, Canon City, Colorado, 81212.

INDEPENDENT CONTRACTOR: _____

SSN / FEIN: _____ DOT # _____

ADDRESS: _____

IS EFFECTIVE AS OF: _____

I. SCOPE OF WORK:

Independent Contractor is a for hire motor carrier with sole responsibility for assigning drivers to drive Independent Contractor's trucks. Independent Contractors will provide the following trucks with drivers for hauling aggregates and materials for Tezak Heavy Equipment Co., Inc. : (Attach more sheets if necessary)

Make and Type	Licenses No.
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



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INDEPENDENT CONTRACTOR HAUL AGREEMENT
EXHIBIT A

Type or Printed Name of Driver

Driver's License # & Date of Birth

*Signature of Driver

Date

I certify that the above name driver, as defined in §390.5 of the Federal Motor Carrier Safety Regulations, is regularly driving a vehicle operated by the below-named carrier, and is fully qualified under §339.1 of the Federal Motor Carrier Safety Regulations.

The driver's current medical examiner's certificate expires on: _____

This certificate expires:

(Date not later than expiration of medical certificate)

Issued on: _____
(Date)

Issued By: _____
(Name of Carrier)

(Carrier Address)

*Signature of Independent Contractor

Title

Date

*My signature on this document authorizes Tezak Heavy Equipment to check my MVR at the state.

**Copy of Driver's License and Medical Card Attached

Tezak Heavy Equipment Co., Inc. is not leasing Independent Contractor's truck and has no authority to assign drivers to Independent Contractor's trucks.

Tezak Heavy Equipment Co., Inc. reserves the right to verify that trucks entering quarry match and above list.

II. **DUTIES AND RESPONSIBILITIES OF INDEPENDENT CONTRACTOR:**

Independent Contractor shall be solely responsible for the employment, training, and supervision of its drivers and for the operation, maintenance and repair of its trucks, and any other equipment. Independent Contractors shall have current registration and permits for all trucks and equipment, and shall be responsible for all operating expenses associated with the operation of the trucks or other equipment during this agreement. All drivers used by Independent Contractor for performing its work under this agreement shall have the qualifications and licenses required by the Federal Motor Carrier Safety Regulations. Independent Contractor shall not use an **unqualified** or **disqualified** driver for any work for Tezak Heavy Equipment Co., Inc. under any circumstances.

III. **INSURANCE:**

Independent Contractor will, at its expense, obtain maintain insurance covering all operation and transportation services to be provided under this agreement in insurance companies with a Best's Insurance Rating of A-(VII) or better or otherwise acceptable to Tezak Heavy Equipment Co., Inc. as follows:

A. **Worker's Compensation and Employers Liability Insurance:**

Worker's Compensation Insurance will be maintained as required by any applicable law or regulation. Employers Liability Insurance will be maintained in amounts of not less than \$100,000 each accident for bodily injury by accident, \$100,000 policy limit for bodily injury by disease, and \$300,000 aggregate for bodily injury or disease.

B. **Auto Liability Insurance:**

Such insurance will include coverage for bodily injury and property damage, liability and auto contractual liability covering all autos, trucks, tractor, trailers and semi-trailers while engaged in transportation or hauling operations for Tezak Heavy Equipment Co., Inc. If Independent Contractor's operations involve the transportation of hazardous materials then auto liability policy will be endorsed with an MCS-90 Endorsement (Federal Motor Carrier Act).

1. **Limits of Liability:** The limits of liability will not be less than either (1) a combined single limit for bodily injury and property damage liability of \$1,000,000 each accident (2) split limits of \$500,000 each person, \$1,000,000 each accident for bodily injury liability, and \$250,000 each accident for property damage liability.

2. Additional Insured's: Tezak Heavy Equipment Co., Inc. and their officers and employees shall be named as additional insured's under Independent Contractor's Auto Liability Insurance policy.

C. General Liability Insurance:

Independent Contractor will carry General Liability insurance including coverage for Products and Completed Operation and Contractual Liability Insurance for the obligations assumed by Independent Contractors in this agreement.

1. Limits of Liability: The limits of liability will not be less than either (1) a combined single limit for bodily injury and property damage of \$1,000,000 each occurrence, \$1,000,000 aggregate, or (2) split limits of \$500,000 each person, \$1,000,000 each occurrence for bodily injury liability and \$250,000 each occurrence for property damage liability.
2. Additional Insured's: Tezak Heavy Equipment Co., Inc. and their officers and employees shall be named as additional insured's under Independent Contractor's General Liability Insurance policy.

D. Certificates of Insurance:

Independent Contractor will furnish certificates of Insurance to Tezak Heavy Equipment Co., Inc. before any work is commenced hereunder by Independent Contractor. The Certificate of Insurance will provide that there will be no cancellation or non-renewal of coverage without prior written notice to Tezak Heavy Equipment Co., Inc. The acceptance of Certificates of Insurance by Tezak Heavy Equipment Co., Inc. will not limit or relieve Independent Contractor's responsibility to obtain and maintain the insurance coverage specified in this agreement.

E. Endorsements:

Each of the policies specified in paragraphs III. B and III. C shall be endorsed to stipulate that the insurance afforded the additional insured will apply as primary and noncontributory insurance and that any other insurance maintained by Tezak Heavy Equipment Co., Inc. will be excess only and will not be called upon to contribute with the insurance specified in this agreement.

IV. COMPLIANCE WITH ALL APPLICABLE LAWS:

Independent Contractor will comply with all applicable laws and regulations. This covenant includes, without limitation, that in regard to (a) the hiring, tenure,

conditions of employment, and discharging of employees and their hours of work and rate of and the payment of their wages, and (b) the keeping of records, making of reports, and payment, collection, and/or deduction of Federal, State, and local taxes and contributions that Independent Contractor will keep and have available all necessary records and make all payments, reports, collections, and deductions and otherwise do any and all things to as to fully comply with all Federal, State and local laws, ordinances, and regulations, in regard to any and all said matters insofar as they affect or involve Independent Contractor's performance under this agreement, all so to fully relieve Tezak Heavy Equipment Co., Inc. from and protect it against any all responsibility or liability therefore in regard thereto.

Furthermore, Independent Contractor will comply with all of the provisions of the Federal Motor Carrier Safety Regulations of the US Department of Transportation (Regulations) applicable to motor carriers, employers, and employees.

With regard to this agreement and the services to be rendered hereunder, Independent Contractor acknowledges that Tezak Heavy Equipment Co., Inc. is not a motor carrier or employer and Independent Contractor is not an employee of Tezak Heavy Equipment Co., Inc. for purposes of compliance with the regulations. Independent Contractor will furnish to Tezak Heavy Equipment Co., Inc. the certification required by §391-65(a)(2)(vii) of the Federal Motor Carrier Safety Regulations for the required certification is attached hereto as Exhibit A.

V. INVOICES AND PAYMENT:

Independent Contractor will submit invoices twice each month, (1) for 1st through 15th of the month, and (2) for 16th through the 31st. The second invoice must be received no later than the 3rd of each month. Tezak Heavy Equipment Co., Inc. will pay these invoices on the 10th of the following month. For example, Invoice No. 1 submitted for January 1st – 15th and Invoice No. 2 submitted for January 16th – 31st will be paid on February 10th. If the 10th of the month falls on a Saturday or Sunday, then checks will be issued on the Monday following the 10th. Failure to provide invoices in a timely manner could result in the Independent Contractor waiting until the next following month for payment. For example, if Independent Contractor waited until February 9th to submit invoices for January, then Tezak Heavy Equipment Co., Inc. reserves the right to wait until March to issue a check.

VI. SAFETY:

In addition to complying with all safety laws and regulations, Independent Contractor will comply with all safety rules and regulations, promulgated by Tezak Heavy Equipment Co., Inc. and applicable to its quarry and job sites, and any safety rules and regulations promulgated by a third party and applicable to

the activities conducted by Independent Contractor pursuant to its performance under this agreement.

VII. EQUAL EMPLOYMENT OPPORTUNITY:

Independent Contractor agrees not to discriminate against any of its employees or any applicant for employment because of age, race, color, sex or national origin. Independent Contractor will comply with all applicable laws, Executive Orders and regulations concerning nondiscrimination in employment.

VIII. RISK OF LOSS:

Independent Contractor acknowledges that it will bear all risk of loss with regards to its performance under this agreement, including without limitation, cost on losses caused by delays attributable to Independent Contractor, breakdowns of trucks and the acts or omissions of Independent Contractor's employees.

Independent Contractor acknowledges that Tezak Heavy Equipment Co., Inc. owns trucks for hauling aggregate and has driver employees for operating such trucks. Independent Contractor agrees that Tezak Heavy Equipment Co., Inc. may utilize its trucks and drivers in any manner that is it wishes and that Tezak Heavy Equipment Co., Inc. is not obligated to order work from Independent Contractor unless it chooses not use its own trucks.

IX. INDEPENDENT CONTRACTOR:

Tezak Heavy Equipment Co., Inc. is engaging Independent Contractor only for the purposes and to the extent set forth in this agreement. The relation of Independent Contractor to Tezak Heavy Equipment Co., Inc. during the term of this agreement will be that of an independent contractor and Independent Contractor's employees will not be deemed to be employees of Tezak Heavy Equipment Co., Inc. Neither Independent Contractor nor its employees will be entitled to participate in any of Tezak Heavy Equipment Co., Inc. pension, stock, bonus, profit sharing, retirement, health, or other employee benefit plans.

Independent Contractor is free to utilize its equipment and employees in any manner that it wishes to contract with any third party and to conduct such other business as it may wish as long as such action does not preclude or interfere with Independent Contractor's performance of its obligations under this agreement.

X. NO PARTNERSHIP OR JOINT VENTURE:

Independent Contractor's relationship to and with Tezak Heavy Equipment Co., Inc. will be that of Independent Contractor only. Independent Contractor is not and will not be construed as a partner or joint venture of Tezak Heavy Equipment Co., Inc. This agreement does not and will not be construed to establish a partnership or joint venture.

XI. INDEMNIFICATION:

Independent Contractor shall indemnify, defend, and hold harmless Tezak Heavy Equipment Co., Inc. and officers, employees, and agents from and against all claims, actions, losses, damages, liabilities, costs, and expenses including without limitation any interest, penalties, and attorney's fees asserted against, resulting to, imposed upon, or incurred by Tezak Heavy Equipment Co., Inc. or their officers, employees, or agents directly or indirectly, by reason of negligence caused by or resulting from damage to property, injury to or death of a person or persons, or other damages or injury attributable to negligence caused by the act or omission of Independent Contractor or any of its partners, employees, or agents. Independent Contractor shall indemnify and hold harmless Tezak Heavy Equipment Co., Inc. from and against all damages losses, costs, and expenses, including attorney's fees resulting to or incurred by Tezak Heavy Equipment Co., Inc. by reason of or resulting from any breach by Independent Contractor or any of its obligations or covenants under this agreement.

XII. TERMINATION:

If either party fails to perform its obligations or covenants under this agreement, the non-defaulting party may terminate this agreement by giving 10 days written notice of termination specifying the default. In addition, the non-defaulting party will have the right to avail itself to any or all remediation provided by this agreement or by the law. The parties agree that any remedies provided in this agreement are cumulative and not exclusive.

XIII. NOTICES:

All notices required by this agreement shall be in writing and shall be either hand delivered or sent by certified mail, return receipt requested, postage prepaid, the address of the appropriate party as set forth below or to the known address of such party if different than the address below or sent by facsimile to a machine owned by or at the disposal of the receiving party. All notices so given shall be effective when delivered. Any party may change the address or facsimile number specified in this agreement by giving notice in the manner specified above.

TO: Tezak Heavy Equipment Co., Inc.
205 Tunnel Drive
Canon City, CO 81212
719-269-1148 (Fax)

TO: Independent Contractor: _____

Fax Number: _____

XIV. SEVERABILITY:

If any provision of this agreement is ruled to be invalid or illegal, such ruling will have no effect upon the remaining provisions, which will be considered legally binding and given the full effect.

XV. HEADINGS:

The headings of the paragraphs and subparagraphs of this agreement are included for convenience only and will not affect the construction or interpretation of any of its provisions.

XVI. ATTORNEY'S FEES:

If there is any litigation or arbitration between the parties pertaining to this agreement, the substantially prevailing party shall be awarded an amount equal to or all of its attorney's fees, court costs, and all other expenses incurred, which pertain to the dispute between the parties. Such amount plus any other amount included in the judgment shall accrue interest at the rate of 18% per annum until collected in full. Such party shall also be awarded all attorneys' fees, court costs, and other expenses incurred in collecting its judgment, including appeals.

XVII. BINDING EFFECT:

This agreement will be binding upon and inure to the benefit of the parties and their successors. Neither party may assign its rights or delegate its duties hereunder without the prior written consent of the other party.

XVIII. ENTIRE AGREEMENT; MODIFICATION WAIVER:

Except as provided in paragraph XIX, this agreement constitutes the entire agreement of the parties regarding the subject matter of the agreement and supersedes all prior agreements, verbal or written, which pertain to the subject matter of this agreement. This agreement may be modified only in writing, signed by all of the parties. The waiver of a breach of any provision of this agreement will not be construed as a waiver of any subsequent breach. No waiver will be valid unless it is in written and signed by the party giving the waiver.

XIX. PRIOR COMMITMENTS:

If, upon the effective date of this agreement, Independent Contractor has any existing commitments or agreements with Tezak Heavy Equipment Co., Inc. regarding hauling of aggregate, Independent Contractor shall fulfill such commitments or complete its obligations under such agreements in accordance with their terms. In such event this agreement shall apply to the jobs or projects specifically indemnified in this agreement.

XX. GOVERNING LAW; FORUM FOR DISPUTE:

This agreement shall be construed and governed by the laws of the State of Colorado. Venue for any litigation shall be in Fremont County, Colorado.

XXI. SAFETY RESPONSIBILTY:

As Tezak Heavy Equipment Co., Inc.'s continuing emphasis on safety, we require all contract haulers working for us to follow the same guidelines as our employees. These guidelines must be met and will be a part of the contract you have with Tezak Heavy Equipment Co., Inc.

- All employees will be required to wear hard hats while at the quarry, construction site, work site or where posted (not in vehicles).
- All employees will be required to wear over the ankle hard (steel or polymer) toed leather boots. No tennis shoe look-a-likes will be permitted. (If not in vehicles)
- All employees at the quarry, shop, work sites, or construction sites will wear safety glasses. (If not in vehicles)
- Safety vests will be worn at all construction sites and work site where traffic is present. (If not in vehicles)
- Hearing protection is required for all personnel at posted sites.
- All employees will be required to wear appropriate clothing; specifically no short or tank tops will be permitted at the quarry, work sites or construction sites.

XXII. DOT COMPLIANCE:

Any driver used by Tezak Heavy Equipment Co., Inc. must be in compliance with DOT requirements related to holding a Commercial Driver's License (CDL). The Independent Contractor agrees to be responsible for insuring that its drivers used by Tezak Heavy Equipment Co., Inc. complies with DOT requirements, including DOT regulations related to drug testing and the maintenance of drug testing records and further agrees to produce all above-described DOT records to Tezak Heavy Equipment Co., Inc. within 24 hours of such request. The Independent Contractor agrees to indemnify Tezak Heavy Equipment Co., Inc. for any fines incurred as a result of Independent failure to comply with DOT requirements as set forth above, It will be the Independent Contractor's responsibility to comply and provide evidence to Tezak Heavy Equipment Co., Inc. of DOT compliance.

Tezak Heavy Equipment Co., Inc.

INDEPENDENT CONTRACTOR

BY: _____

BY: _____
