Sharing of Responsibilities Between Operators Covered by 
EPA’s Pesticide NPDES General Permit: Potential Contract Language

WHEREAS this Contract is between __________________, a decision-making entity (“Client”) with control over the 
decision to perform pesticide applications, including the ability to modify those decisions that result in a discharge to Waters of 
the United States, and __________________, a contract entity (“Applicator”) who is to perform for-hire pesticide 
applications under the direction of the Client to satisfy the terms of this Contract;

WHEREAS the Applicator identified in this contract is expected by Client to properly execute the pesticide application 
and may direct workers to carry out those activities, it is acknowledged by both parties that these day-to-day application 
management activities do not assume the decision-making role of Client as defined by the pesticide NPDES general permit;

WHEREAS the pesticide NPDES general permit compliance requirements for Applicator differ from those of Client, it 
will be Applicator’s responsibility under this Contract to satisfy the following permit requirements to: (a) apply the pesticide(s) 
chosen by Client in the amount and frequency dictated by the product label and this Contract; (b) apply the pesticide(s) in a 
professional manner, assessing weather conditions and performance of application equipment, so as to minimize discharge to 
Waters of the United States; (c) maintain all pesticide application equipment, including calibration, cleaning, and repair to 
industry standards, recommended industry practices and/or manufacturer specifications to prevent leaks, spills, misapplication 
or other unintended discharges to Waters of the United States; (d) monitor Applicator’s activities and take corrective actions 
that may become necessary to minimize discharges to Waters of the United States and meet permit requirements; (e) accurately 
and timely report corrective actions or adverse incidents as necessary to meet permit requirements, and keep and retain 
necessary records to document those actions and incidents for three years after the expiration of the NPDES permit, and (f) share information as necessary with Client to facilitate Client’s development of plans, records and to satisfy permit compliance 
requirements;

WHEREAS it will be Client’s responsibility, and not Applicator’s, under this Contract and in satisfaction of permit 
requirements to (a) submit accurate and complete Notices of Intent (NOI) to appropriate regulatory entities with copies to 
Applicator for any pesticides to be applied under this Contract that may result in a discharge to Waters of the United States; (b) 
submit accurate and complete certifications with copies to Applicator for satisfaction of the Endangered and Threatened Species 
protection compliance provisions of permit; (c) complete and keep up to date Pesticide Discharge Management Plans required 
by the permit; (d) complete and document Integrated Pest Management decisions and activities required by the permit; (e) 
complete and document surveillance and monitoring requirements of the permit other than those required of Applicator as 
described in the previous paragraph; and (f) keep records and provide reports, including but not limited to Annual Reports, as 
required of Client by the permit;

WHEREAS Client may engage multiple for-hire applicators over the course of the calendar year for pesticide 
application activities that alone or collectively may result in discharges to Waters of the United States;

THEREFORE Client agrees that under this Contract, Applicator is responsible for only those permit compliance 
requirements that are directly under Applicator’s control. Applicator shall not be responsible for any activities that could render 
him a “Decision-maker” and shall not be responsible for any permit compliance requirements that apply to Decision-makers. 
Each party to this Contract agrees to comply with those terms and conditions of the applicable permit that, according to the 
permit, apply to that party, and that neither party assumes responsibility under the application contract for compliance with 
permit terms not applicable to that party. Applicator shall not be responsible for, and Client shall indemnify Applicator against, 
all claims, obligations and losses that may result from any errors or adverse incidents made by Client or any other for-hire 
applicators not party to this Contract.

___________________________________________
Client

Date

Applicator

Date

Disclaimer: The above model contract serves as an example for your review and possible use as you prepare for contract negotiations 
with your customers (e.g., state agencies, mosquito control districts, etc.). It is designed to help you avoid being categorized under the 
NPDES permit as a “decision maker” instead of a “applicator.” This model language is only a guide, and does not convey any legal 
relationship between NAAA and your firm. The contract language you develop with your clients should be reviewed by your personal 
attorney.