

Terms and Conditions

COMPANY

CUSTOMER

W.B. JOHNSTON GRAIN CO. INC.

(the "Company")

P.O. Box 1307

Enid, Oklahoma 73702-1307

Phone: 580-233-5800; Facsimile: 580-234-8712

AND

(the "Customer")

Address

City, State Zip

Phone

enter into this Terms and Conditions ("Agreement") because Company and Customer contemplate that they may enter into various transactions (collectively "Contracts") including:

- A) sales including spot cash sales by Company to Customer of products related to Customer's farming and/or ranching business or incidental to Customer's business; and
- B) sales by Customer to Company of agricultural commodities including spot cash sales, cash forward contracts, delayed price and deferred payment contracts; and
- C) services by Company to Customer related to sales or purchases.

The parties further agree as follows:

1. Customer acknowledges that he/she/it is a merchant as that term is defined by the Uniform Commercial Code with respect to all transactions entered into with Company and that all transactions are related to Customer's farming and/or ranching business. Customer expressly represents that he/she/it intends that transactions entered into with Company are not consumer transactions within the meaning of any state or federal law. Customer acknowledges that Customer is bound by Contract confirmations (including confirmations with respect to Contract amendments agreed to by the parties) and notices sent by Company to Customer regardless of whether or not Customer signs the confirmation or notice. Customer acknowledges that Customer has the obligation to carefully check all specifications of any Contract confirmation or notice sent to Customer by Company. Customer shall have the obligation to within 24 hours notify Company, by telephone and to then confirm in writing to Company, of any material differences with any specification set forth in a Contract confirmation or notice sent by Company to Customer. A notice of Contract amendment sent by Company to Customer shall be binding upon Customer regardless of whether Customer has signed the original Contract confirmation or any amendment to the Contract. Company reserves the right to require signed and written confirmations from Customer. Written communications shall include email and facsimile transmissions per National Grain and Feed Association Trade Rules.
2. Customer authorizes Company to enter into Contracts with Customer pursuant to Customer's written or oral instructions. Customer acknowledges that Company has the right, but no responsibility or obligation, to limit the size and nature of Contracts which Customer may enter into and/or keep open with Company at any time for any reason. Allowance of any Contracts at any time does not constitute precedent or implicit approval for any future Contracts.
3. The parties agree that all Contracts related to agricultural commodities except as otherwise provided herein or in a specific Contract, shall be subject to the Trade Rules of the National Grain and Feed Association (NGFA).
4. **Dispute Resolution Applicable to All Transactions:** The parties agree that the sole remedy for resolution of any and all disagreements or disputes arising under or related to this Agreement, any transaction or any Contract (including, but not limited to, any statutory or tort claims arising from the relationship between the parties) shall be through arbitration proceedings before the NGFA pursuant to the NGFA® Arbitration Rules. The decision and award determined through such arbitration shall be final and binding upon the parties. Judgment upon the arbitration award may be entered and enforced in any court having jurisdiction thereof. (Copies of the NGFA® Trade Rules and Arbitration Rules are available upon request and also from the National Grain and Feed Association; Telephone: 202-289-0873; Website: <http://www.ngfa.org>). The parties agree that any arbitration conducted hereunder shall be governed by the Federal Arbitration Act, 9 United States Code §§ 1-16, as now existing or hereinafter amended. This Agreement, all transactions and all Contracts shall otherwise be governed by, and construed in accordance with, the laws of the State of Oklahoma (with the exception of the State of Oklahoma's conflict of laws statutes or caselaw).
5. Payments due Customer under this Agreement or under any Contract will be paid after delivery and acceptance of the contracted commodity upon the terms and conditions set forth herein or in a specific Contract. In addition to any other allowable deductions, setoffs or offsets (whether arising from this Agreement, a specific Contract or from other debts or claims owed to Company by Customer), any payments to Customer for commodity delivered under any Contract or Contracts shall be subject to prior deduction for applicable discounts or other charges owed to Company by Customer on any other Contract or indebtedness. Customer warrants and represents that commodity delivered under any and all Contracts shall be free and clear of all liens and encumbrances and that free and clear title to the agricultural commodity is being conveyed to Company. If any security interests or other liens are made known to or discovered by Company prior to or at delivery of the agricultural commodity, customer expressly agrees that Company has the right to issue multiple party checks for payment of the agricultural commodity should the Company have any reason to believe that any third party has or may assert a lien or encumbrance against the agricultural commodity delivered under any Contract. The parties agree that Company shall have the right to cause liquidation, termination or acceleration of any or all Contracts because of (a) the insolvency or financial condition of the Seller, (b) the commencement of a case under Title 11 of the United States Code, (c) the appointment of or taking of possession by a trustee in a case under Title 11 of the United States Code or by a receiver or custodian before such commencement, (d) any and all other defaults of the terms and conditions specified herein either directly or by reference thereof. It is expressly agreed that each and every Contract entered into with Customer is subject to the Company's right to setoff any mutual debts and claims against Customer under or in connection with this Agreement, as well as any and all other grain contracts or forward contracts between the parties, as provided in 11 United States Code §§ 362(b)(6) and 556, and pursuant to any other contractual, common law or legal right of setoff available to Company.
6. Customer acknowledges that he/she/it has the obligation to provide Company with assurances that it will perform and make timely delivery of contracted commodities. In the event of default, as adequate assurance, Customer may demand payment from Customer up to an amount equal to the difference between the contract price and the then prevailing market price for the contracted commodity. Customer shall provide such adequate assurance within 48 hours of the receipt of a demand from the Company. Customer's failure to provide adequate assurance as demanded by Company shall constitute Customer's repudiation of the Contract or Contracts.

In the event of default, customer agrees to provide Company with financial statements, tax returns or other information at the request of Company so long as Customer has any outstanding Contracts or obligations with Company. Customer authorizes Company to contact such banks, financial institutions, credit agencies, U.S. Department of Agriculture Farm Service Agency offices and other credit sources and references as Company shall deem appropriate from time to time to verify information provided by Customer. Customer understands that such an inquiry may be made pertaining to Customer's personal and business credit standing and that Customer may make a written request within a reasonable time for complete and accurate disclosure of its nature and scope.

7. In the case of Customer's default of any of his/her/its obligations in this Agreement or with respect to any Contract, Customer shall be liable to Company for all costs incurred (including attorney fees) in enforcing this Agreement or any Contract and/or collecting any damages found owing to Company. Customer also shall be liable for the payment of compound interest at the rate of 1.5% per month (or the maximum rate allowable by law if the maximum rate is less than 1.5% per month which equals 19.56% per annum) from the date of default on any damages found owing to Company.
8. Customer acknowledges that the relationship between the parties is an ordinary Company-Seller relationship or Company-Buyer relationship and that Customer has made, and will make, its own independent decisions about whether or not this Agreement or any particular Contract is in Customer's best interests. Customer acknowledges that Contracts involve financial risks which Customer will independently evaluate prior to entering into Contracts. Customer accepts the financial consequences of Contracts. Customer and Company acknowledge that neither party intends the establishment of a fiduciary relationship between the parties.

9. Customer indicates that he/she/it does business as (choose one only):

Individual Sole Proprietor

Corporation

Tax Identification Number: _____

Limited Liability Company

Trust

10. The specified delivery location or price basing point set forth in any Contract between the parties shall be deemed the delivery location, except that Company shall have the right, but not the obligation, to designate any reasonable alternate delivery points. If Company designates an alternate delivery location, then Company's schedule of transportation costs at the time of delivery shall apply. If Seller requests an alternate delivery location and Company consents, then any increased transportation costs are Seller's sole responsibility.
11. Company has the right, without penalty, to delay the time for accepting or making delivery and making payment (where applicable) under any Contract if such delay is caused by government regulation or action, labor strikes, riots, insurrection, freight embargoes, transportation delays or other causes not within Company's control. In the event of a delay, Company shall accept or make delivery and make payment (where applicable) under the Contract(s) as soon as practicable after the cause for delay has ceased.
12. Company shall have the right to apply deliveries of agricultural commodities by Customer or make deliveries to Customer as determined by Company. If Customer fails to perform any of the terms and conditions of any Contract with Company, then Company reserves the right to deem Customer in default of that particular Contract and in default of any other Contract between Company and Customer.

