

**W.B. JOHNSTON GRAIN CO. INC.**

**P.O. Box 1307**

**Enid, Oklahoma 73702-1307**

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

**MASTER TRADING AGREEMENT**

W.B. JOHNSTON GRAIN CO. INC. (the “Company”)

and

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[customer name and address] (the “Customer”)

enter into this Master Trading Agreement (“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. As adequate assurance, Company 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.

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 \_\_\_\_\_  
*tax identification number*

\_\_\_\_\_ Partnership \_\_\_\_\_  
*tax identification number*

\_\_\_\_\_ Corporation \_\_\_\_\_  
*tax identification number*

\_\_\_\_\_ Limited Liability Company \_\_\_\_\_  
*tax identification number*

\_\_\_\_\_ Trust \_\_\_\_\_  
*tax identification number*

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.
13. **Sales of Agricultural Commodities by Customer to Company:** The parties agree that any references to a futures or options month in a Contract are for purposes of any pricing formula using the Chicago Board of Trade (CBOT) or the Kansas City Board of Trade (KCBOT), whichever is applicable, as a benchmark. Company reserves the right to enter into futures or options transactions to protect its position, but Customer is not and shall not be a party to any futures or options transactions entered into by Company. "Rolling" of a basis or HTA contract by Customer is within the **sole discretion** of Company and requires Company's written agreement. The establishment of the futures reference price for either a basis or HTA Contract must be done by Customer by notifying Company during an actively trading daytime session of the CBOT or KCBOT, whichever is applicable. It is the Customer's responsibility to monitor Contracts and market conditions. Pricing Method/Terms under any particular Contract may include, but are not limited to, the following methods:
  - **Flat Price** = The cash price shown in the Contract shall represent the final cash price (less any adjustments for grade or quality specifications should Company accept commodities not meeting contract specifications).
  - **Minimum Price** = The price shown in the Contract shall represent a price floor, but not a ceiling on the price.
  - **Basis Pricing** = The Contract shall initially be unpriced, but the basis set forth in the Contract shall represent a fixed differential between the cash price when the contract becomes priced and the designated option month. The fixing of the futures value must be fixed before the beginning of the designated option month or the price will be automatically fixed by the Company on a pricing deadline. Company reserves the right to refuse requests to roll the basis.

- **Hedge-to-Arrive (HTA) Pricing** = The futures reference price has been established in the Contract. The final cash price must be set before the beginning of the delivery period shown in the Contract. The final cash price will be established by the futures reference and month price plus or minus the posted cash basis for that delivery period and location. The fixing of the basis value must be done prior to delivery or before the beginning of the designated option month, whichever occurs first. If the Seller fails to cause the basis to be fixed by the Pricing Deadline, then the Company has the right to fix the basis on the next business day following the pricing deadline. Any basis established by the Company shall then be used to determine the final cash price due the Seller. Company reserves the right to refuse requests to roll HTA Contracts.
  - **Put Cash Pricing** = The price shown in the Contract shall represent a minimum price, but not a maximum price. Customer has the opportunity to increase the Contract price in the event of an upward price move based on an options-based pricing formula. Basis and final price shall be set on or before the expiration date for the referenced options month.
  - **Min/Max Pricing** = The minimum price of the Contract shall be the referenced strike price less premium and service charges and basis. If the referenced futures at expiration are at or below the minimum strike price, then the Contract price shall be at the minimum price as defined in the prior sentence. If the referenced futures at expiration are above the maximum strike price, then the Contract price shall be at the maximum strike price less premium and service charges and basis. If the referenced futures at expiration are above the minimum strike price, but below the maximum strike price, then the Contract price shall be at the referenced futures price less the premium and service charges and basis. Basis and final Contract price shall be set on or before the referenced options expiration date.
14. **Target Price Agreements:** Company may, but is not required to, permit Customer to make firm “target price offers” to enter into cash grain contracts with Company. Customer acknowledges that any particular “target price offer” will not be accepted by Company unless market conditions meet the “target price offer” made by Customer. Company will send confirmation to Customer indicating acceptance of any particular “target price offer” when and if market conditions are met.
  15. Customer guarantees that all commodities delivered by Customer under any Contract with Company shall be a commodity grown in the continental United States.
  16. Unless otherwise agreed in a particular Contract, grades for agricultural commodities shall be based on the Official United States Standards for Grain

applicable under the United States Grain Standards Act in effect at the time of delivery.

17. The quality of agricultural commodity delivered by Customer under any Contract shall be determined at the time and place of delivery, with the weights, grades and other quality criteria at the destination location to govern. Company reserves the right to reject individual shipments not complying with Contract terms. If the Company elects to accept deliveries not meeting contract grade and/or quality, the Company's scale of discounts and premiums at time and place of delivery shall apply, unless otherwise specified in writing. Refusal of the Company to accept delivery of agricultural commodities not meeting contract terms shall not release Customer from any Contract. Acceptance of any delivery of commodities by Company after breach of the terms and conditions of any Contract by Customer shall not waive any rights or remedies accruing to Company as a result of any prior breach.
18. All commodity delivered by Customer under any Contract shall be of merchantable quality, unadulterated, and unrestricted from movement in interstate commerce within the meaning of the Federal Food, Drug and Cosmetics Act, the U.S. Grain Standards Act, and all other applicable local, state and federal laws. Customer shall not deliver commodities found to contain mycotoxins that exceed advisory, action or regulatory levels issued by the federal Food and Drug Administration (or any other similar federal, state or local government agency) in effect at the time of delivery of the contracted commodity. If any commodity applied to a Contract is adulterated, unmerchantable or misbranded under any applicable laws, or the commodity or its shipment is in violation of any provision contained in this contract, Customer shall be deemed in breach of the Contract and shall indemnify Company from all costs, damages and losses.
19. Customer has an obligation to deliver the agricultural commodity described in each Contract during the stated delivery period. Each Contract shall be considered a "delivered contract" for purposes of the NGFA Trade Rules and title and risk of loss shall remain in Customer until physical delivery to Company's designated delivery point and acceptance by Company. Customer's obligation to deliver is absolute and Customer warrants that it will deliver the quantity described regardless of any other similar delivery commitments Customer has or may have with Company or any other parties.
20. **Agricultural Chemicals (Herbicides/Pesticides):** While Company works with Customers as requested with respect to selection of agricultural chemicals, Customers make the final determination as which agricultural chemicals (herbicides/pesticides) are suited for their needs. Company works as a dealer only with respect to agricultural chemicals and is not the manufacturer. Company, as a dealer, makes **NO GUARANTY** whatsoever with respect to weed or pesticide

control from agricultural chemicals. Customer acknowledges that weather conditions and other factors beyond Company's control affect the performance of agricultural chemicals (pesticides/herbicides). Customer, if not satisfied with the performance of any agricultural chemical purchased from Company, must contact Company WITHIN 30 DAYS of planting after a pre-plant product has been applied and WITHIN 21 DAYS of application of a post-applied product. In such a case, Company will contact the manufacturer of the product to assist Customer. Customer acknowledges that Company shall have no liability to Customer and any assistance provided by Company to Customer with respect to Customer complaints is an accommodation to Customer and not an obligation of Company.

21. **NATURE OF GOODS SOLD BY COMPANY:** Goods sold by Company are as described in any Contract or invoice related to the goods. Company, as Seller of goods, warrants only that the goods are as described. **COMPANY MAKES NO OTHER AFFIRMATION OF FACT AND MAKES NO OTHER PROMISE RELATING TO GOODS SOLD THAT HAS BECOME OR WILL BECOME THE BASIS OF THE BARGAIN MADE OR THAT HAS CREATED OR AMOUNTED TO AN EXPRESS WARRANTY THAT THE COMMODITIES CONFORM TO ANY OTHER DESCRIPTION. NO SAMPLE OR MODEL HAS BEEN OR WILL BE MADE PART OF THE BASIS OF THE BARGAIN OR HAS CREATED OR AMOUNTED TO AN EXPRESS WARRANTY THAT THE WHOLE OF THE GOODS CONFORM TO ANY SAMPLE OR MODEL. CUSTOMER, AS BUYER, ASSUMES ALL RISK AND LIABILITY RESULTING FROM THE USE OF GOODS PURCHASED FROM COMPANY, WHETHER SINGLY OR IN COMBINATION WITH OTHER GOODS.**
  
22. **COMPANY'S DISCLAIMER OF ALL IMPLIED WARRANTIES INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS:** COMPANY, AS SELLER, SELLS ALL GOODS WITH ALL FAULTS AND DISCLAIMS ANY IMPLIED WARRANTIES WITH RESPECT TO THE GOODS. COMPANY, AS SELLER, DISCLAIMS ANY WARRANTY OF MERCHANTABILITY WITH RESPECT TO GOODS SOLD. COMPANY, AS SELLER, DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSES WITH RESPECT TO GOODS SOLD AND COMPANY MAKES NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION OF THE GOODS IN THE APPLICABLE CONTRACT OR INVOICE, IF ANY.
  
23. **Feed Sales for Animals Located in the State of Texas:** The sale of animal feed from Company to Customer on credit is subject to Chapter 188, Agricultural Code. Customer's failure to pay the agreed or reasonable charges for the feed may result in the attachment of a lien to the proceeds of the livestock for which

the feed is used or the proceeds of the animal products produced from the livestock.

24. The United Nations Convention on Contracts for the International Sale of Goods, as now existing or hereinafter amended, shall not apply to any transactions entered into with Company. All payments made by, or owed to, Company shall be based on U.S. Dollars.
25. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement will be deemed to be incorporated into the terms of any existing or future contracts or transactions entered into with Customer unless expressly excluded from application to any particular Contract. Customer cannot assign this Agreement and Customer cannot assign any Contract entered into with Company unless express written consent is first obtained from Company. This Agreement may be altered or amended by Company from time to time upon written notice to Customer. Any amendments agreed to by Company and Customer shall become part of this Agreement.

Each of the representatives of the parties sign below with the intent to be bound and each representative verifies that he/she has authority to sign on behalf of the individual(s) and/or business organization identified in this Agreement.

Dated: \_\_\_\_\_

**CUSTOMER**

\_\_\_\_\_  
Name of Customer (LLC, Partnership, etc.)

Federal Taxpayer I.D. Number:

\_\_\_\_\_

\_\_\_\_\_  
Name of Representative (print or type)

\_\_\_\_\_  
Title of Representative (print or type)

\_\_\_\_\_  
Signature of Representative

**COMPANY (W.B. JOHNSTON GRAIN CO. INC.)**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By:

\_\_\_\_\_  
Title: