

# HEDGE (FUTURES FIXED) TO ARRIVE GRAIN PURCHASE CONTRACT

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This is an agreement that the Seller \_\_\_\_\_  
(Seller's Name)

of \_\_\_\_\_  
(Seller's Address) on \_\_\_\_\_  
(Date)

has sold and agreed to deliver to the Buyer, **Company Name** \_\_\_\_\_  
(Company Name)

at **Address** \_\_\_\_\_ a net quantity of \_\_\_\_\_ (bu. / cwt.)  
(Buyer's Address) (Circle One)

of U.S. \_\_\_\_\_ of \_\_\_\_\_ at \_\_\_\_\_ (% Protein) (% Moisture) at \_\_\_\_\_ for delivery  
(Grade and Kind) (Commodity) (Delivery Location)

\_\_\_\_\_ . The purchase price has not yet been set by Seller. The purchase price will be the 1) Futures Contract price of \_\_\_\_\_  
(Specify Time Period for Delivery) (Amount)

for the \_\_\_\_\_ Futures Contract on the \_\_\_\_\_ and 2) the "cash basis" at the time Seller gives notice to Buyer to set the price. The cash basis  
(month/year) (CBOT/MGE/KCBT)

will be the difference between the price of the Futures Contract and the cash price of the grain at destination for the designated arrival period in this contract at the time Seller elects to set the purchase price. The cash basis could be a plus or minus figure at the time of pricing. Buyer will advance to Seller \_\_\_\_\_% (not to exceed 80%) of the market value of the grain upon completion of delivery. If the market value of the grain drops below 110% of the advance amount, partial repayment of the advance to maintain the 10% differential will be required from Seller. If Seller does not provide the required funds on short notice, this contract may be liquidated by Buyer, and Seller will be liable for any deficit. Settlement will be made to Seller when the cash price is fixed.

Seller agrees to set the "cash basis" and thereby determine the purchase price of said grain on or before \_\_\_\_\_ (Date) during regular trading hours of the Exchange. Unless other terms have been agreed upon prior to said date, Buyer is authorized to set the cash basis and the cash price of said contract if the grain has not been priced by Seller by said date.

Seller shall pay Buyer a service charge equal to the greater of 1) \_\_\_\_\_ cents per bushel or 2) \_\_\_\_\_ cents per bushel per month or fraction thereof from delivery of the grain to the date that the cash price is set. The service charge shall be payable at the time the purchase price is determined.

## ADDITIONAL TERMS AND CONDITIONS

**Grade and Quality Specifications:** The quality of grain delivered under this contract shall be determined at the place and time of delivery. Buyer's weights and grades to govern. All deliveries made under this contract shall be of the grade and quality specified herein. Buyer reserves the right to reject individual shipments not complying with this provision. Refusal by the buyer to accept delivery of grain for this reason shall not release the seller from this contract.

**Title:** Title to the grain shall pass to the Buyer at the time of delivery even though no price has been determined.

**Market Fluctuation:** Buyer and Seller recongize that the prevailing market price when delivery is required, or when the contract price is fixed, may differ substantially from the contract price, and each party agrees not to assert such a difference as an excuse for non performance hereunder or as a defense for damages for failure to perform in whole or in part.

**Merchantable Quality:** All grain delivered under this 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, Environmental Protection Agency tolerances, the U.S. Grain Standards Act and applicable state law. Seller expressly warrants that this grain was produced in the continental United States. *Seller shall not deliver, and the Buyer has the right to reject delivery of, a commodity containing transgenic genes or traits that are not approved for sale in Japan, Mexico, the European Union, or other U.S. export markets.*

**Liens:** Seller hereby warrants to Buyer that all grain delivered hereunder is now and will remain up to and including the time of delivery, free of all liens, encumbrances or security interests of any kind except as follows: \_\_\_\_\_

**Premiums and Discounts to Apply:** Acceptance of deliveries not meeting the contract grade and quality shall be at the option of the Buyer. If the Buyer elects to accept such deliveries not meeting the contract grade and quality, market scale discounts and premiums at time of delivery will apply, unless otherwise specified hereafter. The following premiums and discounts will apply to grain delivered pursuant to this contract: \_\_\_\_\_

**Settlement for Underdeliveries:** All deliveries made under this contract shall be for the quantity specified herein. If the Seller finds he will not be able to complete delivery of the contracted quantity, it shall be the duty of the Seller to advise the Buyer at once. The Buyer, when Seller's default is determined, shall by the close of the next market day elect either to: a) agree with the Seller upon an extension of the time for delivery; or b) after having given notice to the Seller to complete the contract, the Buyer, by the exercise of due diligence, will buy-in for the account of the Seller the defaulted portion of the contract; or c) after having given notice to the Seller to complete the contract, the Buyer will cancel the defaulted portion of the contract at the difference between the contract price and the replacement cost based on the close of the market the next business day when trades can be made for the account of Seller.

**Buyer's Right to Delay Delivery Period:** The Buyers has the right, without penalty, to delay the time for accepting delivery and making payment under this contract if such delay is caused by government regulation or action, labor strikes, riots, insurrection, freight embargoes or transportation delays. It shall be the duty of the Buyer to accept delivery and make payment under this contract as soon as practicable after the cause for delay has ceased.

**Arbitration:** Buyer and Seller agree that all disputes and controversies between them with respect to this contract shall be subject to the Trade Rules of, and arbitrated by the \_\_\_\_\_ and that judgement may be entered on the arbitration award in any court of competent jurisdiction. Seller agrees to pay all Buyer's costs resulting from Seller's breach, including, but not limited to, reasonable attorney's fees and court costs.

**Binding Effect:** This contract, and any amendments thereto agreed to mutually by the Seller and buyer, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives and successors of the respective parties. This contract may not be assigned.

**Final and Complete Agreement:** This contract shall represent the final, complete and exclusive statement of agreement between the parties and may not be modified, supplemented or waived, except in writing signed by both parties.

In witness whereof, the parties have signed this contract this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

**NOTICE TO SELLER OF FINANCIAL RISK**  
Your state requirements printed here on 'credit sale' contracts

Seller \_\_\_\_\_  
(AUTHORIZED SIGNATURE(S)) DATE

**Company Name**

BUYER: \_\_\_\_\_  
(Authorized Signature(s)) Date

SELLER: \_\_\_\_\_  
(Authorized Signature(s)) Date