

**AGRAMARKE QUALITY GRAINS, INC.
UNIFORM MARKETING AND DELIVERY AGREEMENT**

APRIL 2001

This Uniform Marketing and Delivery Agreement (“this Agreement”) is made and entered into by and between AgraMarke Quality Grains, Inc., a Missouri cooperative association (“Quality Grains”), and the undersigned member of Quality Grains (“Member”). This Agreement is effective as of the date it is approved and accepted by Quality Grains.

PREAMBLE

WHEREAS, Quality Grains is organized and operated as a nonstock cooperative association under Missouri statutes, Chapter 274, for the mutual benefit of all members of Quality Grains. Quality Grains is organized with the intent of acquiring ownership rights in a grain processing facility located in St. Joseph, Missouri (“Facility”); and

WHEREAS, this Agreement records legal relations between Member as seller and Quality Grains as buyer of corn and wheat and is a contract between Member and Quality Grains as authorized by and under Missouri statutes §§274.200 and 274.210. Member has entered into this Agreement as a condition to becoming a member of Quality Grains in accordance with and subject to the Articles of Incorporation (“Articles”) and Bylaws of Quality Grains. Member acknowledges that this Agreement includes as part of its terms each provision of the Articles, Bylaws and other reasonable policies, rules and regulations adopted by Quality Grains’ Board of Directors (“the Board”), as fully as though each provision was expressly set forth in this Agreement. By signing this Agreement, Member acknowledges receipt of a copy of the Articles and the Bylaws.

WHEREAS, this Agreement has been entered into by Member and Quality Grains because Quality Grains desires to protect its interests by ensuring access to an adequate supply of corn and wheat (collectively, “grain”), and Member desires to establish and protect its right to market a specified number of bushels of grain with Quality Grains on a patronage basis in accordance with the Articles and Bylaws.

NOW, THEREFORE, Member and Quality Grains agree as follows:

1. **Appointment of Quality Grains as Agent.** Member appoints and designates Quality Grains to act as Member’s sole agent in the purchase, sale, processing, and marketing of the grain committed to Quality Grains under this Agreement and any supplements, extensions, renewals, substitutions or modifications of this Agreement.
2. **Grain Committed to Quality Grains.** Member agrees to commit and deliver annually to Quality Grains up to 5,000 delivery units of corn or wheat, or a combination of each, for each Unit held by the Member during each processing year under a Commodity Marketing Contract, a form of which is attached as Exhibit A. (The terms and conditions of the Commodity Marketing Contract entered into each year are subject to change and the form is for example purposes only.). Each bushel of corn equals one delivery unit and each bushel of wheat equals 1.5 delivery units. For example, for each Unit held by the Member, Member must annually deliver 5,000 delivery units of grain consisting of 5,000 bushels of corn or 3,333 bushels of wheat or a combination of corn and wheat to equal 5,000 delivery units. On the signature page of this Agreement, which must be separately signed, Member must indicate how many bushels of corn and/or wheat Member will deliver for each Unit owned, up to 5,000 delivery units. If Member contracts for less than 5,000 delivery units for each Unit held by Member, Member acknowledges that Member will not receive any payment for delivery units not contracted, including patronage payments under paragraph 8.

The actual per Unit bushel delivery requirement will be established for each processing year by the Board based on the number of bushels committed under this Agreement and the estimated grain requirements to be marketed for processing at the Facility. For purposes of this Agreement, a processing year starts on August 1 of each year and ends on July 31 of the following year, until otherwise changed by Quality Grains.

If Member's production is reduced so that Member is unable to deliver the number of bushels committed under this Agreement and any Commodity Marketing Agreement, Member is required to obtain the grain from another source, if available, and deliver the grain to Quality Grains, as if the grain had been produced by Member. Member will be excused from delivery without penalty only in the event of force majeure conditions beyond Member's control consisting of drought, hail, uncontrollable infestation or other natural conditions specifically determined by the Board of Directors. If Member cannot deliver the grain committed, Member agrees that Quality Grains, at its option, may act as Member's agent for the purpose of obtaining the grain in Member's name and may charge to Member all expenses and incidental costs in obtaining and delivering the grain to Quality Grains' designated locations.

Quality Grains has no obligation to accept for marketing any grain in an amount greater than that specified above, regardless of whether Member's total grain production has increased.

3. **Adjustments to Amount of Grain Committed.** Member acknowledges that certain circumstances may affect the total number of bushels of corn and wheat that Quality Grains may require for marketing and processing in any given year. Member acknowledges and agrees that the Board may increase or decrease the number of bushels of corn and wheat committed by Member on a pro rata basis with all other members.

If the total number of bushels contracted for sale and delivery to Quality Grains by all members under similar Agreements exceeds the number of bushels that Quality Grains determines that it needs during a processing year due to an initial over-subscription of corn and wheat or due to a temporary foreseen or unforeseen processing or marketing problem, the Board has the right to reduce the committed number of bushels on a pro rata basis based upon the number of bushels committed by each Member, either on a permanent or temporary basis, so that the total number of bushels committed to Quality Grains by all members will fulfill Quality Grains' anticipated processing needs. Likewise, if the total number of bushels contracted for sale and delivered to Quality Grains by all members under similar Agreements is less than the number of bushels that Quality Grains determines that it needs to meet its processing requirements during a given year, the Board has the right to increase the committed number of bushels on a pro rata basis according to the bushels committed by each Member up to the amounts stated on the signature page of this Agreement, so that the total number of bushels committed to Quality Grains by all members will fulfill Quality Grains' anticipated processing needs. Quality Grains will notify Member of any changes in the number of bushels to be delivered by Member to Quality Grains in any processing year.

4. **Delivery.** Member agrees that Quality Grains may establish a delivery schedule for all member bushels contracted under similar agreements, and may also establish delivery periods more frequent than annually (in which case the annual delivery obligation of Member under this Agreement would be prorated over the delivery periods.) Member agrees to deliver Member's corn and wheat committed in accordance with the delivery schedule, if one is prepared by Quality Grains for all members, and agrees that the risk of loss for the corn and wheat remains with Member until Member's corn and wheat is delivered to and accepted by Quality Grains. Quality Grains will accept corn and wheat either by:

- (1) Receiving and grading Member's corn and wheat at Quality Grains' designated locations; or
- (2) Notifying Member that Quality Grains has accepted corn and wheat held in storage other than at Quality Grains' designated locations.

The Board may modify the above process if it is determined that some other process will allow Quality Grains to more efficiently accept, process, or market corn and wheat.

5. **Forward Contracting.** Quality Grains, at the discretion of the Board, may offer forward contracting opportunities to Member. Any gains or losses from this service will be added or subtracted from the Grain Payment, as described in paragraph 8(1) of this Agreement, upon delivery.
6. **Product Quality Standards.** All corn and wheat to be delivered by Member to Quality Grains must be identity preserved and meet the product quality standards of the applicable Commodity Marketing Contract. Both corn and wheat must be a “commercially acceptable product” in accordance with Federal and State standards and in accordance with the standards set by Quality Grains. Product of substandard quality, as determined by Quality Grains, will, at Quality Grains’ option, be either:
 - (1) Rejected and returned to Member with all costs relating to the rejection and return charged to Member; or
 - (2) Accepted with deductions and allowances made and charged against Member because of the inferior grade, quality or condition at delivery.

If, in Quality Grains’ sole opinion, Member continually fails to deliver commercially acceptable grain, Quality Grains may terminate this Agreement and Member’s membership in Quality Grains.

Quality Grains will make rules and regulations for grading the quality of grain and to standardize the manner of handling and shipping grain. Member agrees to observe any such rules and regulations and accept the grading established by Quality Grains.

7. **Use of Grain and Grain Products.** Quality Grains has the sole and complete discretion in all phases of any accepting, processing and marketing activity including, but not limited to, commingling, pooling or pledging grain once accepted and any products of the grain as security for loans to any lending institution or other lender.

Quality Grains may, in its sole discretion, market any grain delivered under this Agreement or any Commodity Marketing Agreement on an open market basis if the Facility cannot handle all of the grain committed under Agreements. The proceeds from the grain sold on the open market will be added to all other proceeds of Quality Grains and allocated to members as provided in the Bylaws.

8. **Payments to Member.** Quality Grains will market the grain to Lifeline for processing at the Facility. Quality Grains agrees to pay Member as follows:
 - (1) *Grain Price and Payment.* Quality Grains will pay Member a price per bushel determined by or under the direction of Quality Grains’ Board of Directors, based on available market information within 10 days of each delivery and acceptance.
 - (2) *Value Added Payments.* At the end of each processing year, and at other times as determined by the Board, Quality Grains will determine the net income from all of its operations and may make such allocations and payments to Member, which will further compensate Member for value added to Member’s grain processed at the Facility; and
 - (3) *Patronage Allocation.* Member is entitled to allocation of earnings from Quality Grains in accordance with Quality Grains’ Bylaws.

9. **Member's Warranty.** Member represents and warrants to Quality Grains that Member is the owner of the grain delivered to Quality Grains under this Agreement and that the grain is commercially acceptable, as required in paragraph 6 of this Agreement.

10. **Term of Agreement.**

- a) *Five Year Initial Term; Subsequent Five Year Evergreen Terms.* The initial term of this Agreement commences as of the date it is approved and accepted by Quality Grains. The initial term shall continue for five consecutive years after the date Member's obligation to deliver grain under this Agreement begins. Member's obligation to deliver grain under this Agreement, as determined by Quality Grains' Board, shall begin upon receipt of written notice from Quality Grains. This date is referred to as the "Starting Delivery Date." Until the Starting Delivery Date, Quality Grains has no obligation to accept grain from Member.

On the fifth anniversary date of the Starting Delivery Date, this Agreement will automatically renew for a successive five year term unless either party gives notice of termination as provided below. Each succeeding year this Agreement will be renewed in the same manner so that, unless notice of termination is given, there will always be a five year ongoing obligation for Member and Quality Grains under this Agreement.

- b) *Notice Termination.* Either party has the right to terminate this Agreement at the end of the initial term and each five year renewal term by giving written notice to the other party of such termination as follows:
- (1) Notice of termination of the initial term must be given not more than 180 days nor less than 30 days before the date that is five years after the Starting Delivery Date. If such notice is given, Member and Quality Grains will have four years remaining under this Agreement instead of the five year renewal term.
 - (2) Notice of termination after each renewal term must be given not more than 180 days nor less than 30 days before the next anniversary date of the Starting Delivery Date. If Member gives notice after any number of renewal terms, Member and Quality Grains will have four years remaining under this Agreement.

11. **Remedies.** The parties agree that the following remedies apply:

- a) *Member's Remedies.* If Quality Grains fails to pay any payment for grain delivered and accepted as provided in paragraph 8 of this Agreement, Member may recover the payments from Quality Grains. Member may not claim or recover any incidental or consequential damages for non-payment. If Quality Grains rejects any grain tendered for delivery, Quality Grains will not be liable for damages, provided Quality Grains has performed in good faith in the establishment of quality specifications and in the inspection and rejection of grain tendered for delivery. If the obligation of good faith is violated, then Member may resell the grain and recover the difference between the resale value and the payments Member would have received as determined under paragraph 8 of this Agreement, less per unit retains, and less expenses saved in wrongful rejection. If Quality Grains rejects any grain tendered for delivery, Member may not withhold future scheduled deliveries. Member may withhold future scheduled deliveries only in the event that Quality Grains fails to pay Member the payments owed Member as provided in paragraph 8 of this Agreement.
- b) *Quality Grains' Remedies.* If Member fails to make delivery, other than for force majeure conditions as described in paragraph 2, or Quality Grains rejects in good faith any tender of delivery under this

Agreement or any Commodity Marketing Contract, Quality Grains may in good faith and without unreasonable delay pursue the remedies in this paragraph. Quality Grains may make any reasonable purchase of grain in substitution for that due from Member. Quality Grains is entitled to injunctive relief or a decree of specific performance in the event of any breach of this Agreement or any Commodity Marketing Contract. Quality Grains will also be entitled to, as liquidated damages, an amount equal to 25% of the market value of the grain which Member has failed to furnish or improperly furnished. The market value will be determined by using the highest price for corn and wheat at the delivery point that was designated by Quality Grains during the 30-day period following Member's breach of this Agreement. In the event of the non-performance by Member under this Agreement or any Commodity Marketing Contract, or should such nonperformance result in the termination of Member's membership in Quality Grains, Member agrees that, in addition to any other remedies available to Quality Grains, the amount of damages Member may become obligated to pay Quality Grains will be credited to Quality Grains against Member's Units, other evidences of equity, or other account balances due to Member. Member agrees to pay all reasonable legal costs and expenses, including attorneys' fees and court costs, incurred by Quality Grains in any action brought by Quality Grains against Member for any breach or threatened breach of this Agreement.

- c) *Member's Termination of Membership.* Member acknowledges Member's status as a member of Quality Grains is subject to termination for cause by action of the Board as provided in the Bylaws. Membership termination is a breach of this Agreement entitling Quality Grains to cancel this Agreement as of end of Quality Grains' fiscal year next following the termination of membership. Termination of membership or cancellation of this Agreement does not waive, affect or limit Quality Grains' remedies as provided in paragraph 11.b) above, and may not be construed as a renunciation or discharge of any claim for an antecedent breach.
- d) *Dispute Resolution.* If there is any dispute or controversy between the parties arising out of or relating to this Agreement, the parties agree that such dispute or controversy will be arbitrated in accordance with proceedings under NGFA Arbitration Rules, and such arbitration will be the exclusive dispute resolution method under this Agreement. The decision and award determined by such arbitration will be final and binding upon both parties. All costs and expenses, including reasonable attorney's fees and expert's fees, of all parties incurred in any dispute which is determined and/or settled by arbitration pursuant to this Agreement will be borne by the party determined to be liable in respect of such dispute; provided, however, that if complete liability is not assessed against only one party, the parties will share the total costs in proportion to their respective amounts of liability so determined. Except where clearly prevented by the area in dispute, both parties agree to continue performing their respective obligations under this Agreement until the dispute is resolved.

12. **Compliance with Quality Grains' Governing Instruments.** Member accepts and agrees to conform to and abide by the provisions of the Articles of Incorporation and Bylaws of Quality Grains and all amendments thereto during the term of this Agreement. In addition, Member agrees that this Agreement constitutes written consent that: (1) the amount of any distributions with respect to Member's patronage during a year in which Member patronized Quality Grains on the basis of corn and wheat delivered to Quality Grains, made by qualified written notices of allocation as defined in Subchapter T of the Internal Revenue Code of 1986, as (hereinafter cited by Section number only) and received by Member from Quality Grains, will be taken into account by Member at its stated dollar amount in the manner provided in Section 1385 in the taxable year in which such qualified written notice of allocation is received; and (2) upon a determination by the Board of Directors that a unit retain is to constitute a qualified per unit retain (as defined in Subchapter T of the Internal Revenue Code of 1986, as amended), Member will take the per unit retain certificate issued in connection therewith into account at its stated dollar amount in the manner provided in Section 1388 in the taxable year in which the per unit retain certificate is received.

13. **Security Interests.** If Member grants a security interest in Member's grain during the term of this Agreement, Quality Grains has the right, after acceptance of the grain by Quality Grains, to pay all or a part of the obligation underlying the security interest, or to issue a joint payment check. Such payment will be for the account of Member and will be charged against the amount owing to Member by Quality Grains. Member must inform Quality Grains of all security interests granted in Member's corn and wheat crops by disclosing all security interests as provided by state or federal law to Quality Grains, and if not provided, then separately in writing.
14. **Inability of Quality Grains to Perform.** In the case of fire, equipment failure, interruption of power, strikes or other labor disturbances, lack of transportation facilities, shortage of storage, shortage of labor or supplies, perils to the facilities, floods, action of the elements, riot, interference of civil or military authorities, enactment of legislation, or any other unavoidable casualty or cause beyond Quality Grains' control that affects the conduct of Quality Grains' business to the extent of preventing or unreasonably restricting Quality Grains' receiving, handling, processing, packaging or sales operations, Quality Grains is excused from performance during the period that Quality Grains' business or operations are so affected. Quality Grains may, during such period, accept such portion of Member's corn and wheat as Quality Grains has informed Member that Quality Grains can in its judgement economically handle.
15. **Complete Agreement.** The parties agree that there are no oral or other written conditions, promises, representations or inducements in addition to or in variance with any of the terms of this Agreement, and this Agreement represents the full, voluntary, complete, and clear understanding of the parties.
16. **Assignment.** Member may not assign this Agreement without Quality Grains' prior written consent, and then only to a member as defined in the Bylaws. Quality Grains may not assign this Agreement without Member's prior written consent, except that Quality Grains may assign, without Member's prior written consent, this Agreement as collateral security for any or all loans made to Quality Grains.
17. **Waiver of Breach.** No waiver of a breach of any of the provisions contained in this Agreement will be construed to be a waiver of any subsequent breach of the same or any other provision of this Agreement.
18. **Construction of Terms of Agreement.** The language in all parts of this Agreement must be construed as a whole, and not strictly for or against any party. If any term, covenant or condition of this Agreement is held to be invalid or void by a court, the invalidity of such term, covenant or condition will in no way affect any other term, covenant or condition of this Agreement.
19. **Notices.** All notices from one party to another must be in writing and dispatched by ordinary mail, postage prepaid, to Quality Grains at its designated address and to Member at Member's address as it appears on the books of Quality Grains.
20. **Governing Law.** This Agreement will be governed by and enforced in accordance with the laws of the State of Missouri.
21. **Successors and Assigns.** Subject to the other provisions of this Agreement, all of the terms, covenants and conditions of this Agreement inure to the benefit of and are binding upon the parties, their successors and permitted assigns.
22. **Modification.** This Agreement may only be amended or modified upon a majority vote of Quality Grains' members who have executed a Uniform Marketing and Delivery Agreement, except that Member and Quality Grains may amend the Number of Delivery Units and Annual Bushel Delivery on the signature page in a manner consistent with this Agreement as determined and approved by the Board of Directors.

Member Number _____

**UNIFORM MARKETING AND DELIVERY AGREEMENT
SIGNATURE PAGE**

I hereby commit the following delivery units and bushels of corn and wheat to be delivered annually under this Agreement, consisting of seven (7) numbered pages and twenty-two (22) sections, and any Commodity Marketing Contract, of up to 5,000 delivery units total for each Unit owned by me. I understand and acknowledge that Quality Grains may increase or decrease the number of bushels committed below as a pro-rata basis with all other members provided any increase will not exceed my commitment stated below. Each bushel of corn equals one delivery unit and each bushel of wheat equals 1.5 delivery units.

	Number of Delivery Units	Annual Bushel Delivery
Corn		
Wheat		

MEMBER:

Dated the ____ day of _____, 20__

Signed

Printed Name

Address

City, State, Zip

Phone

Social Security No. or Employer I.D. No.

ACCEPTANCE OF AGREEMENT

AgraMarke Quality Grains, Inc. hereby accepts the above Uniform Marketing and Delivery Agreement from Member.

Dated this ____ day of _____, 20__.

AGRAMARKE QUALITY GRAINS, INC.

By: _____

Its: _____