

**Hasselberg Grebe Snodgrass
Urban & Wentworth**
Attorneys and Counselors

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Post Harvest Contract Review

Now that you have made it through harvest, it is a good time to review your grain contracts (and crop input contracts, if applicable), your contracting practices, and your company's practices and procedures to reduce risk. Market volatility, input and fuel prices, cash rent levels, the weather, and a multitude of other factors can put your customers at risk. If you determine that you have a particular customer that is at risk (especially key customers that contract a high volume of grain), it could put the continued viability of your company at risk. So, how can you manage that risk? One way is to make sure that you have thorough grain contracts and crop input contracts, if applicable. While nothing can completely eradicate the risk, a well-drafted contract can help to significantly reduce the risk.

We have also noticed that lenders are requiring more information about key producers, including reviewing contracts with those producers. They understand that your risk is their risk and lenders desire to have a level of comfort that your producers are going to fulfill their contracts with you. This is yet another reason for your contracts to be comprehensive and in good order. It is also important that your contracts be signed.

Additionally, assessing the risk that particular customers may present to your company has become more and more important. As producer operations get larger, the failure of just one of those producers to honor its contracts can seriously hurt an elevator. Various techniques can be used to limit that risk. For example, thoroughly and periodically checking out the customer's financial condition can provide vital information. If the customer is a partnership, a limited liability company (LLC), or corporation, knowing all of the players (partners, members, shareholders, managers, officers, directors, etc.) involved is important.



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Also, monitoring the actions or inactions of your customers can be helpful. These steps can include things like on-site visits at the fields where the grain is being grown and making sure that the harvested grain that is intended to be used to fill open contracts with your company is not being taken to another elevator, elsewhere. Other practices we recommend include:

- a) Be formal and get everything in writing.
- b) Make sure that all contracts are signed by an individual who has authority to sign for your customer.
- c) If your customer is an entity that is not an individual, get something in writing certifying who is authorized to sign documents on behalf of the entity.
- d) Think like a lender, including using proper legal documentation and establishing your organization's risk tolerance.
- e) If you determine that there is significant risk with a customer, ask for personal guarantees from that customer if it is an LLC, corporation or other entity. Remember, if something goes wrong with your customer that is an LLC or corporation, the customer might have very few assets for you to pursue. As part of that process, if you have a reasonable basis you may wish to demand that your customer provide you with adequate assurance that they will honor and fully perform their open contracts with your company.
- f) If it makes sense for a particular customer, your company can place a limit on the number of bushels that customer can forward contract with you.

Another important consideration is the use of Master Agreements in addition to your individual transaction contracts. As you may be aware, a master agreement is a longer, more detailed agreement setting forth the basic terms under which the elevator will work with a customer. Then, for each transaction, a much shorter and simpler document can be signed that sets forth the basic terms of the particular transaction (price, quantity, delivery period, etc.). The net result is that the long document full of legalese needs to be reviewed and signed only once. If done properly, the time and effort to review the particular legal terms can be done one time up front, making the transactions during the rest of the year simpler and cleaner.

Master agreements are not for everyone. Some elevators are comfortable with the current way that they do business, and it suits them just fine. Also, a master agreement might be useful for some of your customers, but not really needed for others. It is a determination that only you can

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Jim Grebe Name Top Agricultural Attorney

We are pleased to announce that Jim Grebe has again been named as one of the Top 10 attorneys in the State of Illinois in the area of Agricultural Law. This Leading Lawyers list is determined through a statewide survey of attorneys, and identifies the top lawyers in certain areas of law as determined by their peers. Jim's recognition is well-deserved. His unwavering dedication to his clients and his vast experience in the practice of agricultural law is reflected by his many successes over the years.

Jim is a two-time past Chairman of the Illinois State Bar Association Agricultural Law Section Council (2004-2005 and 2012-2013) and served on the ISBA Agricultural Law Section Council for sixteen years beginning in 1998. Furthermore, while working closely with the Illinois Department of Agriculture, Jim and others assisted in drafting and amending the Illinois Grain Code that continues to govern the Illinois Grain industry. Jim was appointed to the Grain Code Committee by the Director of the Illinois Department of Agriculture and was the drafting Secretary for that committee. Today, Jim focuses on helping his clients protect their business interests through prudent grain contracting practices and careful planning, as well as general corporation matters, including mergers, leases and acquisitions. He also counsels his clients on the regulatory framework and administrative procedures when dealing with Illinois Department of Agriculture. Jim is one of the founding partners of Hasselberg Grebe Snodgrass Urban & Wentworth. He has been admitted to practice before the United States Supreme Court, the U.S. Tax Court, the U.S. Court of Appeals, Seventh Circuit, and the U.S. District Court (Central District and Northern District) of Illinois. He is also a fellow of the Illinois Bar Foundation.

Jim is a native of Peoria and a graduate of Limestone Community High School. He obtained his undergraduate degree from Concordia University Chicago, and his Juris Doctor degree from the University of Illinois.

Upon graduating from law school, Jim returned to Peoria and began practicing law with several of his eventual law partners.

In addition to Agricultural Law, Jim also focuses his practice in the areas of Estate Planning, Wills, Trusts, Business Entities and succession planning, Tax Law, Real Estate Law, Mergers, Acquisitions, Contracts, and other transactional law.

In addition to his numerous professional activities, Jim is active with many civic organizations. He has been recognized for his significant contributions to his alma mater, Con-



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cordia University Chicago, including serving as a member of its Board of Regents for 9 years where he also served on the Executive Committee and as Corporate Secretary. Jim is also an active member at Christ Lutheran Church of Peoria. He has previously served as an officer, and on the Board of Directors, of the Lutheran Home of Greater Peoria, on the Board of Directors of the American Cancer Society, Peoria Division, and as a Trustee for the Alpha Park Library District.

He was also a long time member of the Board of Directors and an officer of the Arthritis Foundation, Greater Illinois Chapter. Hasselberg Grebe Snodgrass Urban & Wentworth has been a key sponsor of the Arthritis Foundation's Jingle Bell Run for many years.

Jim enjoys spending his free time with his wife and their son. He is also an avid traveler and has visited all fifty states.



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make. We also strongly recommend that your company regularly review your relationship with your customer, particularly your large customers, and customers who are LLCs or corporations, to determine the level of risk and whether any action may be warranted.

Our office has represented grain elevators and the grain industry for over 35 years. We are very experienced in drafting grain contracts, crop input contracts and Master Agreements. We welcome the opportunity to assist you and your company in reference to these contracts, as well as work out or collection proceedings with a problem customer.

The big picture considerations include having detailed and complete contracts and using the best practices to monitor your customer and review the positions that your customers have with your company, particularly if they are large customers, or are an LLC or corporation.

Planning for the Future

We are all getting older (some faster than others, it seems). We have seen a trend where the current generation of key personnel at grain elevators are moving toward retirement. Some of our clients are searching for guidance with respect to succession planning and how best to hand the baton to the next generation. Moreover, the tax laws have changed. While there remains some uncertainty about the recent changes, it will affect succession and estate planning for many. Our office is very experienced in business succession planning and estate planning. We would be happy to assist you with estate planning and your company with succession planning.



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