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Contract Specifications and Steps in Contract Consideration

Steps in Contracting

1. Research the contractor's financial record and how he performs in other contracts.
2. If any changes are made in the agreement, get them in writing.
3. A contract may seem fair, but it was written to be fair to the contractor.
4. Your questions may be satisfactorily answered before you sign the contract but not after.
5. Ensure that the premium offsets any increased risk or higher production and handling costs.
6. Read the contract and understand all of it before you sign it. Ask an attorney to review it.
7. Know the other party in the contract and keep in close communication.
8. Don't sign a contract you do not like hoping to negotiate better terms later.
9. Realize that you have to complete the whole contract before you may get paid.
10. Do not assume the contractor will excuse you from performing part of the contract.
11. Oral promises should not be accepted either before or after signing a contract. Get it in writing.
12. Document everything you do, what you produced and what you delivered.

Questions to ask when signing a contract

Production Issues

- If the contract specifies certain production standards, are those standards well defined?
- What authority does the contractor have to enforce growing obligations?
- Does the contract contain a "passed acres" clause that lets the contractor avoid buying acceptable crops?
- Does the contract require you to make capital improvements or buy expensive equipment? Is the duration of the contract adequate to recover your investment?
- Does the contract require special storage facilities for identity-preserved grains?
- Do the requirements of the contract increase production costs above those normally expected? Are you required to buy inputs from a certain source?

Payment and Delivery Issues

- How are you being paid? Are the terms for payment clearly stated?
- What does the contract require as to the condition of the grain? Are there federal quality standards established for this grain?
- Who conducts the quality tests and when? Can you get a third-party independent test if you disagree?
- Are you penalized for quality non-compliance if it was caused by adverse weather conditions or other factors beyond your control?
- Are you required to deliver a set amount of grain under the contract? Do you have to find substitute supplies to fulfill the contract if you have a shortfall?
- Can you make adjustments in number or location of acres if weather prevents planting?
- What is the time length between delivery and payment? Are the terms for delivery clearly stated?
- Who owns the crop? Who bears the risk of loss of the crop in the field, in storage, in transport?
- Is this a contract sale of grain or are you simply being paid for a service?

Other Legal Issues

- What legal relationship does the contract create between you and the contractor? Is it landlord/tenant, employer/employee, independent contractor, partnership, joint venture, agency?
- Are disputes resolved in the court or by an arbitration panel?
- Is the contract being interpreted under the laws of the state in which you live or the state in which the contractor is headquartered?
- Does the contract let the company release the crops without compensation late in the growing season?
- Can the contract be assigned or transferred by you or the contractor to other parties?
- Are there clauses about migrant or seasonal worker protection standards that could open you to liability?
- Under what conditions can the contractor terminate the contract? Who determines if those conditions have been met?

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