

Warehousing Standard Terms & Conditions (2011-2012)

1. Background

- (a) These are the terms and conditions that apply to the supply by AWB GrainFlow Pty Limited (ABN 62 088 928 858) (**GrainFlow, we or us or our**) of warehousing and related services to the person (**you or your**) specified in the attached 2011/2012 Season Growers Warehousing Agreement (**Warehousing Agreement**).
- (b) These terms and conditions must be read in conjunction with, and form part of, the Warehousing Agreement. These terms and conditions may be amended by us by notice from time to time and the amendments will take effect as from the date of the notice.

2. Our agreement

Subject to these terms and conditions, we will:

- (a) warehouse commodity delivered by you (or on your behalf) and to which title has not transferred to any other person in accordance with these terms and conditions (**Your Grain**) to the storage facility specified in the Warehousing Agreement (**Storage Facility**) and in respect of which you confirm, by signing our completed warehousing weighbridge ticket (**Weighbridge Ticket**) that you require us to supply warehousing services; and
- (b) in accordance with your instructions given from time to time, provide you with an administrative service that effects the transfer by you of the title in Your Grain to a participating grain marketer (being a person who has entered into our standard storage and handling agreement and who is offering to purchase commodity at the relevant time (**Participating Marketer**)).

3. Your obligations

- (a) You must comply with all procedural requirements that we from time to time notify in relation to the supply by us of the services described in paragraph 2.
- (b) You represent and warrant that any commodity delivered by you (or on your behalf):
 - (i) does not contain genetically modified material in excess of 0.9% of the weight of the commodity delivered;
 - (ii) has not been treated at any time with any water-based contact chemical (pesticide or insecticide);
 - (iii) does not contain any detectable gaseous phosphine or gaseous methyl bromide residue; and
 - (iv) has not been treated with any artificial colouring, pickling compound or marker dye that may sustain or have stained the grain.
- (c) You represent and warrant that any person delivering any commodity to us on your behalf is your agent, and is authorised to make the representations and warranties set out in the documents in Annexures A, B and C on your behalf. Without limiting the preceding sentence, each time Your Grain is delivered to us (whether by you or on your behalf) for the supply of services under the Warehousing Agreement, you will be deemed to have made the representations and warranties set out in those documents in relation to the relevant grain. You indemnify us against all costs, losses and liabilities that we may suffer arising from any breach of these representations and warranties.

4. Compliance with receival standards and entitlement to reject

You acknowledge and agree that we may refuse to accept delivery of Your Grain under this agreement where:

- (a) that grain does not meet our applicable receival standards;
- (b) that grain is not delivered with the receival information that we require; or
- (c) we determine (in our discretion) that we have insufficient capacity at the Storage Facility.

5. Weights and grade

You acknowledge and agree that the weight and grade of Your Grain delivered under this agreement will be that recorded in the applicable Weighbridge Ticket.

6. Title & Lien

- (a) You warrant and represent that you are the sole legal and beneficial owner of Your Grain with full right, title and interest, free from any mortgage, charge, lien, option, encumbrance or other adverse claim or interest.
- (b) Without limiting any right conferred upon us by law, You agree that we shall have a first and paramount lien over Your Grain for all moneys payable by you to us, whether under the Warehousing Agreement or otherwise.
- (c) You acknowledge and agree that upon default by you in making any payments due to us and in exercising the lien referred to in paragraph 6(b), we shall be entitled to sell as your agent all or any of Your Grain in such manner as we think fit and use the proceeds of such sale in or towards satisfaction of the moneys due to us, together with our costs of effecting the sale. The balance of the proceeds of such sale will be paid to you.

7. Charges

- (a) No charges are payable by you for any services supplied by us under these terms and conditions in respect of any of Your Grain during the Transfer Period. The Transfer Period, for the purposes of these terms and conditions means the balance of the calendar month in which you deliver Your Grain to the Storage Facility and the next following two calendar months, ending on the last day of the last of those two months.
- (b) In relation to any of Your Grain which remains in the Storage Facility after the end of the Transfer Period, you agree to pay to us the applicable storage charges shown in or attached to the Warehousing Agreement (Storage Charges) from the day after the end of the Transfer Period until the date that it ceases to be Your Grain.
- (c) The Storage Charges must be paid by you within 14 days after invoice from us from time to time except that in circumstances where you instruct us to transfer title to any of Your Grain, all Storage Charges in respect of that grain must be paid in full up to the date of transfer. You agree that we may refuse to effect the transfer until you have complied with the requirements of this paragraph.

8. Risk

To the extent permitted by law and despite anything to the contrary contained or implied in these terms and

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conditions, you bear all risk of loss or damage to Your Grain howsoever arising, other than to the extent caused by our negligence (subject to clause 9). You must maintain all appropriate insurances to cover your risk.

9. Liability

- (a) You indemnify us against all claims, damages, losses, costs, expenses and liabilities, indirect and special loss and damage, and loss of profits, suffered or incurred by us arising directly or indirectly in connection with any commodities delivered to us by you (or on your behalf), including (without limitation) for breach of clause 3 of these terms and conditions.
- (b) We exclude all implied conditions and warranties except any implied condition or warranty the exclusion of which would contravene any statute or cause any part of these terms and conditions to be void (Non excludable condition).
- (c) To the extent permitted by law, our liability to you for breach of any Non excludable condition is limited, at our option, to refunding the price of the services in respect of which the breach occurred or to supplying those services again or to paying the cost of having those services supplied again.
- (d) Except for liability for breach of any Non excludable condition and to the extent permitted by law, in respect of any breach of any contract between us or any negligent act or omission by us (whether in relation to any contract between us or otherwise):
 - (i) we exclude liability for loss of profits or special, consequential or indirect loss or damage; and
 - (ii) without limiting paragraph 9(d)(i) our total liability to you for any single occurrence or event or series of related events shall not exceed \$50,000.00.

10. Your acknowledgments

You acknowledge and agree that:

- (a) The representations and warranties provided by you under these terms and conditions are true and accurate, and that we may rely on the representations and warranties in storing and handling commodities and in our dealings with third parties in relation to the commodities.
- (b) We will keep a representative sample of each load of commodities delivered by you (or on your behalf). Without limiting clause 10(a), we may (but are not obliged to) test these samples for the presence of any genetically modified material or any pesticide residues and/or grain treatments.
- (c) We will commingle Your Grain with grain delivered by third parties to the Storage Facility and which is of the same grade.
- (c) Your Grain cannot be removed from the Storage Facility.
- (d) Where Your Grain is delivered to the Storage Facility using our On Farm Pickup Program, despite anything to the contrary contained in these terms and conditions and in accordance with that program, title to that grain may only be transferred to a Participating Marketer who has agreed to participate in the On Farm Pickup Program in the manner contemplated in the On Farm Pickup Program terms and conditions, as accepted by you as a condition of your use of that program (Pickup Terms). In accordance with the Pickup Terms, the costs of collecting Your Grain (Collection Costs) will be deducted from the

proceeds otherwise payable for the purchase of Your Grain.

- (e) Without in any way limiting the basis on which the On Farm Pickup Program is provided to you (as specified in the Pickup Terms), in relation to any of Your Grain:
 - (i) delivered to the Storage Facility using the On Farm Pickup Program; and
 - (ii) in respect of any of Your Grain which remains in the Storage Facility after the end of the Transfer Period,- we will invoice you the Collection Costs and you must pay our invoice within fourteen (14) days after receipt.

11. GST

- (a) Words defined in the A New Tax System (Goods and Services Tax) Act (1999) have the same meaning in this paragraph 11.
- (b) Unless otherwise expressly stated, any amounts payable or any form of consideration to be provided for a supply made under these terms and conditions are exclusive of GST (GST exclusive amount).
- (c) If we make a taxable supply to you, you must pay to us an amount equal to the GST payable on the taxable supply to the extent that, in addition to, and at the same time and in the same manner as the GST exclusive amount is otherwise payable for the supply.

12. General

- (a) Any failure by us to insist on strict compliance with any of these terms and conditions or any delay by us in exercising our rights under these terms and conditions will not constitute a variation or waiver of any of these terms and conditions or any other right that is available to us.
- (b) If part or all of any provision of these terms and conditions or its application to any person or circumstance is illegal or unenforceable, the provision will be interpreted so as to ensure it is not illegal or unenforceable. If any provision or any part of it cannot be so interpreted, the provision or part of it will be severed from these terms and conditions and the remaining provisions of these terms and conditions remain in force.
- (c) Where you comprise two or more persons, an agreement or obligation to be performed or observed by you binds those persons jointly and each of them severally.
- (d) We may set off against any amounts that we or any of our Related Bodies Corporate (as that expression is defined in section 50 of the Corporations Act (2001)) owe to you any amounts that you owe to us in connection with the Warehousing Agreement.

Annexure A – Declaration for Grower Deliveries of Canola



Declaration for Grower Deliveries of Canola

I represent and warrant that:

- (a) This load does not contain genetically modified 'Roundup Ready®' canola.
- (b) The ticket relates to a declared Non-GM variety, and as such, does not contain any genetically modified material in excess of the allowed limit of 0.9% by weight.
- (c) If I am not the grower named below, I am authorised to make these representations on behalf, and as agent, of the grower.

Ticket #: _____

Date: _____

(Signature of Grower or grower's
nominated representative)

(Signature of Grain centre representative)

(Print name)

(Print name)

Please note:

1. AWB GrainFlow will rely on the accuracy of this declaration in its storage and handling of the commodity and in its dealings with third parties.
2. A representative sample of each delivered load of canola will be kept by AWB GrainFlow. Without limiting paragraph 1, this sample may be tested specifically for the presence of genetically modified material. AWB GrainFlow is not obliged, however, to conduct such testing.
3. In the event that genetically modified material is found in the commodity, the sample and/or this declaration may be required for re-testing to confirm results and may form part of legal proceedings taken against the Grower.
4. AWB GrainFlow may suffer loss or damage arising from a false or inaccurate declaration and, without limitation, may be exposed to claims for breach of legislative requirements and claims by third parties including in relation to the supply of contaminated commodities. To the extent relating to the supply of a false declaration, AWB GrainFlow may hold the Grower responsible for all resultant loss or damage.

Annexure B – Pesticide Residue Free (PRF) Declaration for Post Harvest Grower Deliveries



Pesticide Residue Free (PRF) Declaration for Post Harvest Grower Deliveries

I represent and warrant that:

- (a) This load meets PRF standards - that is, it has not been treated at any time with any water-based contact chemical (pesticide or insecticide), nor does this load contain any detectible gaseous phosphine or gaseous methyl bromide residue or any other form of gaseous residue.
- (b) This load has not been treated with any artificial colouring, pickling compound or marker dye that may sustain or have stained the grain.
- (c) If I am not the grower named below, I am authorised to make these representations on behalf, and as agent, of the grower.

Ticket #: _____

Date: _____

(Signature of Grower or grower's nominated representative)

(Signature of Grain Centre representative)

(Print name)

(Print name)

Please note:

1. AWB GrainFlow will rely on the accuracy of this declaration in its storage and handling of the commodity and in its dealings with third parties.
2. A representative sample of each delivered load will be kept by AWB GrainFlow. Without limiting paragraph 1, this sample may be tested specifically for the presence of any pesticide residues and/or grain treatments. AWB GrainFlow is not obliged, however, to conduct such testing.
3. In the event that any evidence of pesticide residues and/or grain treatments is found in the commodity, the sample may be required for re-testing to confirm results and may form part of legal proceedings taken against the Grower.
4. AWB GrainFlow may suffer loss or damage arising from a false or inaccurate declaration and, without limitation, may be exposed to claims for breach of legislative requirements and claims by third parties including in relation to the supply of contaminated commodities. To the extent relating to the supply of a false declaration, AWB GrainFlow may hold the Grower responsible for all resultant loss or damage.

Annexure C – Delivery Ticket Terms and Conditions

Terms and Conditions

I/We warrant that the information as recorded on this delivery ticket is accurate and complete.

I/We:

- (i) acknowledge and accept that the classification, weight, variety and all other details as recorded on this delivery ticket are correct and related to the declared variety for delivery to the Acquirer;
- (ii) warrant that all information that I/We have provided on the delivery ticket, including but not limited to the classification, weight, variety, and whether or not the commodities are genetically modified is correct (together "Information Warranty");
- (iii) acknowledge and accept that none of AWB GrainFlow Pty Limited (ACN 62 088 928 858) ("AWB GrainFlow") nor the Acquirer, nor their respective related bodies corporate as that term is defined in the Corporations Act 2001 (Cth), officers, employees or agents (collectively Relevant Parties) are responsible or liable in any way for any loss, cost, damage or expense (including indirect and special loss and damage and loss of profits) howsoever arising that may result from defective classification or from any cause beyond the reasonable control of any of the Relevant Parties; and
- (iv) release each and all of the Relevant Parties from any and all actions, claims and demands howsoever arising that may result from defective classification or from any cause beyond the reasonable control of any of the Relevant Parties.

I/We warrant that all commodities delivered against this delivery ticket have not been treated at any time with any commodity treatment or applied chemical, insecticide or pesticide, other than with either gaseous phosphine or gaseous methyl bromide and I/We warrant that there is no detectible gaseous phosphine or gaseous methyl bromide residue or any other form of gaseous residue on the commodity upon delivery to any of the Relevant Parties and further I/We have not treated the commodity with any artificial colouring, picking compound or marker dyes that may sustain or have stained the commodity, (together Treatment Warranty).

I/We accept that the base price (if any) offered by the Acquirer and shown hereon (Base Price) is final and binding (subject only to adjustment for any applicable premiums and discounts) except in circumstances where I/We have selected a pool payment method, in which case I/We acknowledge that the Base Price is an estimate only.

I/We warrant that I/We and any other third parties acting on My/Our behalf in connection with the delivery/sale of commodities will at all relevant times comply with and take all reasonable steps to assist any of the Relevant Parties to comply with (including, but not limited to, providing to any of the Relevant Parties, access to driver work diaries, details of a driver's fatigue management accreditation and/or any other reasonably detailed evidence which may be requested by the Relevant Parties from time to time) all relevant transport laws regulations, codes or standards of industry best practice that are related to or connected with the delivery of the commodity to any of the Relevant Parties, including but not limited to occupational health and safety, driving hours, driver fatigue, loading, unloading, weight, mass and dimension limits (together Transportation Warranty). I/We acknowledge and accept that the Relevant Parties may at their sole discretion and without reason and without any liability whatsoever to Me/Us or any third party, refuse to allow any vehicle to deliver commodities to the Relevant Parties.

I/We agree to indemnify each and all of the Relevant Parties against any and all loss, costs, damage and expenses, indirect and special loss and damage, and loss of profits, howsoever arising sustained or incurred by

any of the Relevant Parties and all actions, claims and demands which may be made against any of the Relevant Parties and that arise, directly or indirectly, in connection with:

- (i) the commodities delivered against this delivery ticket;
- (ii) the non-compliance by Me/Us with the Information Warranty, whether accidental, negligent or deliberate;
- (iii) any substance or contaminant on or in the commodity mass delivered against this ticket that (a) does not conform with the AWB GrainFlow Receival Standards and/or (b) is in breach of the Treatment Warranty, whether either (a) or (b) be accidental, negligent or deliberate;
- (iv) the non-compliance by Me/Us with any relevant transport laws or regulations, codes or standards of industry best practice that are related to or connected with the delivery of the commodity to any of the Relevant Parties, including but not limited to occupational health and safety, driving hours, driver fatigue, loading, unloading, weight, mass and dimension limits; and
- (v) the non-compliance by Me/Us or by any carriers engaged by Me/Us with the Transportation Warranty, whether accidental, negligent or deliberate.

I/We warrant that the type of vehicle used has been correctly identified and weighed. I/We acknowledge that AWB GrainFlow may be required by law, or may voluntarily elect (in its sole discretion), to provide this ticket and other information in relation to the specific load to the State Road Authorities in accordance with any applicable road transport legislation. I/We understand that that overloading represents a breach of such legislation and that heavy fines and other penalties may apply. I/We acknowledge that all delivery tickets will be endorsed by AWB GrainFlow as "GVM exceeded" when a mass breach occurs and that AWB GrainFlow maintains a record of any such mass breaches.

I/We warrant that if I/We am/are not the grower named above, I/We am/are duly authorized to sign this delivery ticket and make each and all of these representations on behalf of the grower.

(Signature of Grower or grower's
nominated representative)

(Signature of Grain centre representative)

(Print name)

(Print name)