



Australian Growers Direct Pty Ltd
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2012/2013
Season
Grain Grower
Storage
Agreement





2012/2013 Season Storage Agreement

This **AGREEMENT** is dated the _____ day of _____ 2012

BETWEEN Australian Growers Direct Pty Ltd - "**Company**"
15 Edith Tce
BALAKLAVA SA 5461

AND

Legal Entity Name: _____ "**Client**"

Client ABN: _____ (*must be inserted*)

Postal Address:

NGR Number –

RECITALS

(a) The Company carries on the business of receiving, handling, transporting and storing Grain and other commodities at the Facilities.

(b) The Client is the owner of certain Grain.

(c) The Company has offered to provide the Services on the terms and conditions contained in this Agreement.

(d) The Client has accepted the Company's offer to provide the Services on the terms and conditions contained in this Agreement.



2012/2013 Season Storage Agreement

This Agreement between Australian Growers Direct Pty Ltd, - **“Company”**

15 Edith Tce
BALAKLAVA SA 5461

and **The Client** as described above

The Parties agree to be bound by the provisions of this Agreement and by signing the signatories warrant that they each have the authority and to enter into this Agreement on behalf of their respective organisations.

Executed as an Agreement.

Signed for **Australian Growers Direct Pty Ltd:**

Signature of Officer

Name of officer (print)

Office Held

Signature of Witness

Signed for **Client:**

Signature of Officer

Name of officer (print)

Office Held

Signature of Witness

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AUSTRALIAN GROWERS DIRECT

2012/2013 Season Storage Agreement

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1- Application of Terms and Conditions

These terms and conditions apply to the provision by Australian Growers Direct Pty Ltd (“the Company”) of Receival and Outturn Services during 2012/2013 season. These terms and conditions apply to any party (“The Client”) whom are storing a commodity with The Company.

2- Discretions and Approvals

(a) Whenever the Client is required to form an opinion, give approval, exercise a discretion or perform any act under this Agreement, it must be done reasonably in the circumstances and based on reasonable grounds, and not capriciously, or arbitrarily refused or unduly delayed.

(b) In making any decision pursuant to this Agreement, the Company will have regard to the efficient running of the relevant Company Facility and the balancing of the interests of all users of that Company Facility.

(c) Any refusal by the Company to accept a request for a Service will not be a breach of this Agreement for making a decision which in its reasonable opinion is in the best interests of the overall performance of the Company Facility.

3- Commencement, duration and application

This Agreement:

- (i) commences on 1 October 2012 (**Commencement Date**);
- (ii) unless terminated earlier, ends on 30 September 2013 (**Expiry Date**); and
- (iii) applies to all Services provided, or deemed to have been provided, by the Company under this Agreement.

4- Continued application

(a) If the Company continues to provide Services to the Client after the Expiry Date, then the terms and conditions of this Agreement will continue to apply until this Agreement is cancelled by either Party. If the Company issues the Client with a new agreement for the provision of Services for the Season following the Expiry Date, then the date of issuing the new agreement will be the effective date of the Company’s notice of cancellation of this Agreement. Further, any such new agreement issued by the Company after the Expiry Date will also apply to Grain of prior Seasons remaining within the Company Facilities.

(b) For the avoidance of doubt, if Grain of Seasons prior to the 2012/2013 Season is held in a Company Facility as at the Commencement Date, the terms and conditions in this Agreement will apply to the prior Seasons’ Grain unless the context requires otherwise or until these terms and conditions are replaced in accordance with clause (a).

(c) This Agreement supersedes any previous agreement between the Company and the Client for the provision of Services.

5- Company's Rights

The Company reserves the right to refuse to provide Receiveal, Outturn and Storage Services with respect to any Load or any Client on any reasonable grounds, including, but not limited to:

1. Contamination, quality, hygiene or safety;
2. The capacity allocated by the Company to a particular Commodity at the Site being full;
3. The efficiency or capacity of the Site or any of the Company's plant and equipment or systems and procedures;
4. The failure of the Client or the Agent to produce the NGR number;
5. The failure of the Client to comply with these Receiveal and Outturn Services terms and conditions; or;
6. Credit risk.

6- Services

The Company will provide such of the Services as the Client may require, on and subject to the terms and conditions of this Agreement. The Company's obligation to provide a particular Service at the Company Facility at a point in time is subject to the availability of the Company Facility required for that Service at that time.

7- Possession, Risk and Title

The Company does not acquire title to the whole or any part of a Load by virtue of these Receiveal and Outturn Services terms and conditions.

The Client agrees that in the absence of manifest error, the information on the Receiveal and Outturn Docket (including classification, quality and weight) is accurate and will be accepted by the Client.

8- Weighing

For receiveal from road transport at the Company Facility, the Client authorises the Company to use the Company weighbridge to determine the receiveal tonnage.

The Client also authorises the Company to use such weighing systems and equipment as the Company considers appropriate at a Company Facility to determine the Outturned tonnage of Grain.

9- Contaminants

(a) The Client must ensure that all of its suppliers are advised that Grain known or suspected to contain chemical contaminants or residues or both must not be delivered to any Company Facility without prior arrangement and appropriate declarations made in writing received by the company.

(b) If any load of Grain is found to be contaminated, the Client will not be permitted to deliver to the Company Facility until the Client has provided the Company with evidence in the form of independent expert verification that there is no further risk of contamination. If the contaminant is manageable and removed then the Client must produce a new sample for testing prior to any further deliveries.

10- Common Storage

The Company may store the Commodity of a Client with Commodity of the same grade or specification that has been received from other Clients.

Title to common stored Commodity in a storage cell is held jointly by the relevant Clients in the proportions that each Client's quantity of the Commodity bears to the total quantity of Commodity in that cell.

While the Company has possession of Commodity the relationship between the Company and the Client in respect of the possession of the Commodity is one of bailment only; and that relationship will continue to exist despite the Commodity losing its identity by being stored a common storage cell, or the inability of the Company to redeliver to the Client the particular Commodity as per the subject of the bailment.

11- Site Policies & Procedures

The Client and the Agent must comply with all safety, health and environmental policies and procedures applicable to a Site as published at the Site or as otherwise notified from time to time by the Company.

12- The Company's Records

In the absence of obvious error, the Company's records concerning the quantity or quality of a Commodity that is, or has been, the subject of Receipt and Outturn Services and the receipt of that Commodity will be deemed to be accurate and conclusive.

If the Client warehouses the whole or part of a Load: the risk of loss occasioned by theft, fire, food and contamination not caused by an act or omission of the Client, will lie with the Company; and the risk of loss occasioned by spontaneous combustion, water damage caused by the action of the sea, contamination caused by or attributable to the Client or the Agent, and all other risks, will lie with the Client, and should be insured against by the Client.

Subject to the above clauses, the Company will be deemed to take legal possession (as bailee) of a Load from the Client (as bailor) at that point in time at which the Load physically enters within the boundaries of the Site.

13- Shrinkage

The Out-turn Right is subject to a weight deduction for shrinkage. The shrinkage allowance is set out in Schedule 1. Note that the fees charged are calculated on delivered weight.

It is in the interest of the Client to ensure that, if possible, transfers in-store are negotiated on the basis of delivered weight, not shrunk weight.

Product that is remaining in AGD store at the conclusion of this agreement will subject to an additional 1% shrink allowance.

14- Out-turn

The Company will, subject to these terms and conditions and considerations of quality, hygiene, safety, efficiency and practicality, exercise its best endeavours to Out-turn at the time and in the manner requested by the Client. A minimum of 24 hours notice will be required for an out-turn and the transport provider must have appropriate order numbers or another form of authorization.

15- Minimum Out-turn

All out-turns from silo bags under 50mt in a single lift will incur additional fees as set out in Schedule 3 with a minimum out turn of 10mt.

16- Out-turn Standards

The Company's obligation to Out-turn is subject to such Out-turn standards as may be published by the Company from time to time. Some important standards are listed in Schedule 2.

17- Entitlement shortfall adjustment

If the Company system does not hold sufficient commodity of the type and specification of the Client's Commodity at the time the Client exercises its Out-turn Right, the Company will be entitled to satisfy any such physical shortfall by payment of compensation at the season average price.

18- Client's obligation to Outturn

The Client must use its best endeavours to Outturn all Grain from a Company Facility by no later than the 10th September following the date the Grain was received at that Company Facility

19- Cleanliness

- (a) The Client is responsible for ensuring that all of its nominated Transportation Vehicles arrive at a Company Facility in a clean, empty and well maintained state free from any contaminants or residue.
- (b) The Company has no obligation to inspect any Transportation Vehicle for cleanliness, but if it does inspect, then the Company, acting reasonably at all times, is entitled to reject the vessel as unfit for the transportation of Grain and to refuse to load the Transportation Vehicle.
- (c) The Company is not liable for any loss, cost, damage or expense (including Indirect or Consequential Loss) caused as a result of a rejection of the Transportation Vehicle.
- (d) Transportation Vehicles are not permitted to be cleaned at any Company Facility without the Company's prior written consent. If a Transportation Vehicle fails inspection, the Company may instruct the Transportation Vehicle to be removed from the loading bay if it is preventing another Transportation Vehicle from loading at the same place.

20- Transfers In-store

Transfers in-store may be initiated by the Client providing written instructions to the Company. The Company is thereupon authorised to sign the transfer for and on behalf of the Client and for this purpose the Client irrevocably appoints the Company as its agent and attorney. The Company will then seek the purchaser's acceptance of the transfer and confirm completion to the Client. The Company may require In-Store Transfers to take place at an individual weighnote level, thus allowing calculations of the value of the Grain to be ascertained between the transferor and transferee. The Company may refuse to process an In-Store Transfer if the In-Store Transfer results in the transferor's Outturn Entitlement going into a negative position at any particular Company Facility.

21- Effective Date of Transfers

The effective date, for charging purposes, of a Transfer in-store will be the date that the Company receives instructions from the Client to action the transfer. The Company will use its reasonable endeavours to process a transfer within 48 hours of receipt of instructions

22- Charges

The charges for Receival and Warehousing are set out in Schedule 4. Unless otherwise stated the charges are exclusive of GST. The charges from in-store transfers comprise the Receival Services Fee, Storage & Segregation Fee, accumulated carry debt and administration charges may apply to some transfers in-store. All warehousing charges are to be applied to shrunk tones.

23- Payment

All accrued charges and any costs payable on any account in respect of Commodity that is the subject of the Out-turn Right, must be paid in accordance with the invoice rendered by the Company. The full amount of an invoice rendered by the Company must be paid by the Client within 14 days from the date of that invoice.

The Company may in their discretion deduct from, set-off against and/or otherwise reduce or deem satisfied any obligation it may have to the Client to the extent of any obligation that the Client and/ or the Client may have to the Company (whether present or future, certain or contingent, ascertained or sounding only in damages) on any account whatsoever.

24- Default Interest

The Client shall pay interest on overdue monies on any account in respect of the Commodity that is the subject of the Out-turn Right, calculated at the rate of 3% above the corporate indicator rate offered by the CBA Bank calculated on a daily basis from the due date for payment to the date on which the charges, plus the accrued interest, are paid in full.

25- Reconciliation and adjustment

(a) This clause applies if, after the Outturn of all Grain of a Season from all Company Facilities, there is a difference between the Client's Outturn Entitlement and the tonnage actually Outturned to the Client.

(b) For all Grain, unless otherwise agreed, a Season average price will be calculated based on weighted Season average cash prices posted at Port Adelaide as reported by Profarmer. If cash prices are not posted, or are posted with such irregularity that they do not represent the market price (in the opinion of the Company in its sole discretion), then the Company will use the weighted average (major grade and average freight) estimated silo return (ESR) of three pool providers for the Season of delivery as its financial washout value.

(c) If the actual tonnage Outturned to the Client exceeds the Client's Outturn Entitlement, the Client must either pay the Company for the excess at the average price calculated under clause (b) (**Washout Price**) or replace the shortfall by using other grades as negotiated and agreed with the Company.

26- Liability

Subject to the following paragraph, the Company will not in any event be liable for any loss of interest, profit, earnings, reputation, opportunity or any other special, indirect or consequential damage suffered by the Client arising out of the Company's acts or omissions or the acts or omissions of the Company's agents or contractors. The Company excludes to the maximum extent permitted at law, all conditions or warranties implied by custom, the general law or statute. Some conditions and warranties cannot by law be excluded ("Non-Excludable Warranties"). The Company's liability under any Non-Excludable Warranty is limited to:

1. in the case of services, the re-supply of those services;
2. in the case of goods, the cost of replacing those goods.

27- Carriage Warranties

The Client warrants that:

1. the Client has addressed and remedied any non-compliance issues with respect to the Laws;
2. the Client has in place compliance assurance conditions in relevant commercial arrangements with other responsible persons under the Laws;
3. the Client is not relying on any oral or written representations or statements made by the Company with respect to the carriage of Commodities other than what is set out in this document.

28- Release

Provided the Company has acted in good faith and in accordance with these terms and conditions, the Client releases the Company from any liability in respect of the sale by the Company, on behalf of the Client, pursuant to these terms and conditions, of the Commodity or the Out-turn Right.

29- Company's records

In the absence of obvious error, the Company's records concerning the quantity or quality of the Commodity that is being, or has been Warehoused shall be deemed to be accurate and conclusive.

30- Indemnity

The Client will indemnify and keep indemnified the Company against all losses, damages, costs and expenses (“Losses”) arising out of:

1. any acts by, or omissions of, the Client (or any person acting on behalf of the Client) at the Site (including acts or omissions causing or contributing to any loss of, or damage to, any property of any person, and any injury to, or death of, any person);
2. any overloading of a vehicle containing any Commodity;
3. any claim by a third party to a lien, charge or other security interest in the Commodity or the Out-turn Right;
4. any claim by a third party relating to the acts or omissions of the Client in respect of the Commodity or any Transfer in-store;
5. any breach of warranty or representation given by or on behalf of the Client in respect of the Commodity that is brought to, or unloaded at, the Site by the Client or the Agent;
6. damaged or contaminated grain at the risk of the Client; except for, and to the extent of, any Losses caused by the negligence or default of the Company.
7. any claim by a third party in relation to the whole or any part of a Load that is the subject of Receival Services;
8. the Client or the Agent is responsible for ensuring compliance with all relevant mass limits prescribed by legislation or regulation for the vehicles (the Laws) used when carrying Commodities to or from the Company’s site, and the Client indemnifies the Company against all loss, damage, costs and expenses incurred by the Company that arise in connection with any non-compliance by the Client.

31- Variations

The Company may vary these terms and conditions at any time and from time to time by notice to the Client.

32- Governing Law

These terms and conditions will be governed by the laws of South Australia and the Company and the Client submit to the exclusive jurisdiction of the courts of Adelaide, South Australia.

33- Obligation of the Client

(a) The Client is bound by and must comply at all times with all rules, protocols, policies, procedures and induction requirements published by the Company from time to time, including those in relation to:

- (i) the terms and conditions of Trading services offered by the Company;
- (ii) health, safety and environment;
- (iii) site rules;
- (iv) labour ordering conditions for shipping;
- (v) access and operating conditions for road movements at the Company facility, and must comply with all reasonable directions of the Company.

(b) Whilst on a Company site, the Client (and its agents) must comply with all directions given by the Company's representative, and not create or bring on site any hazard or contamination.

34- Definitions

Accidental Loss or Damage means loss or damage to the Client's Grain caused or occasioned by events not reasonably within the control of the Company.

Agreement means this agreement,

Binned Grade means the Grade of Grain stored in a Cell.

Blending means the mixing of originally segregated Binned Grades held at a Company Facility and it may occur either during storage or during Outturn.

Client means any party (grower or trade) with whom a Storage agreement has been completed, approved and commodity has been stored by The Company on their behalf.

Client's Grain means that quantity of Grain held by the Company on behalf of the Client within the Company's storage system, as adjusted for Shrinkage and other matters allowed or required under this Agreement.

Commencement Date has the meaning given to that term in clause "**Commencement, duration and application**".

Commodity means the particular type of grain or other commodity in respect of which the Grower requests to be, or (as the case may be) has been, provided with Receival Services;

Common Stock means the practice of intermixing and storing Commodity of the same specification or grade owned by different persons.

The Company means Australian Growers Direct ABN 41 109 993 106

Delivery Card means the National Grower Register delivery card;

Expiry Date has the meaning given to that term in clause "**Commencement, duration and application**".

Grade means a grade of Grain of a given Season specified in the Receival (Classification) Standards and Outturn standards of that same Season, or any other grade agreed by the Parties.

Grain means the seed of any crop or pasture species of any genus or grade and (for the removal of doubt) includes Pulses.

Grower means any person involved in the growing of Grain, the contact details for whom have been registered by the Client or the Company or a national grower register.

Identity Preservation means the Client opts to have 'their' grain stored as per 'their' direction, whereby all of 'their' grain is kept as one whole lot and its identity preserved, i.e. the grain is not comingled at the Client's request.

In-Store Transfer means the transfer of ownership of Grain held at a Company Facility from the Client to another person, or vice versa, as recorded in the Company's stock systems.

Load means a quantity of Commodity in bulk;

National Grower Register means the register of grower details operated by National Grower Register Pty Ltd;

Other Client means a person that is provided with a storage service at a Company Facility (other than a Grower). For avoidance of doubt, the Company may be an Other Client.

Outturn means to cause Grain to physically leave the custody of the Company at the Company Facility, at which point physical custody of the Grain passes from the Company to the Client or a third party authorised by the Client.

Out-turn Right means the Client's right to the Out-turn of Commodity of like quantity, type and specification as the Commodity received by the Company at the site at which the Commodity was received;

Definitions con't

Outturn Standards means:

- (a) in respect of Grain other than Pulses, the Receival (Classification) Standards; and
- (b) in respect of Pulses, the Receival (Classification) Standards modified to include an additional tolerance as prescribed by the Company for defective Grain by weight.

Pulses means chickpeas, lupins, field peas, faba beans, lentils, vetch, broad beans and all other grain legumes.

Receival Docket means the weighnote, receipt or other document issued by the Company for signature by the Client or Agent acknowledging receipt of Commodity and setting out amongst other things the weight, type and variety of the Commodity, information regarding quality of the Commodity, the payment grade, the selected purchase option, and, (where applicable), the price;

Receival and Outturn Services means:

- i.) all or any part of the process by which a Load is physically received or outturned by the Company from/to a Client or the Agent at a Site (including provision of access to the Site, sampling, testing, classification, (where necessary) treatment of the Commodity, unloading, inward elevation and weighing);
- ii.) presentation to the Client of purchase and warehouse options;
- iii.) the recording and exchange with relevant purchasers of information in electronic form relating to the receipt of the Load;
- iv.) the provision to the Client of transactional information;

Receival (Classification) Standards means standards that either:

- (a) accord with the industry benchmarks established for Grain and published by the Company prior to the receival of that Grain into a Company Facility; or
- (b) are otherwise agreed with the Client.

Season means the period in which most Commodities are harvested and in respect of which Receival and Outturn Services are sought, typically commencing in November of one year and going through to September in the following year;

Segregation means the physical separation of the storage of Grain by type, Grade, variety or such other distinguishing quality as may be determined by the Company.

Shrinkage means loss in the normal storage and handling process, including loss of mass through changes in moisture content, loss in handling, and Waste. Shrinkage however, does not include Grain lost as Dust.

Site means the facility or premises at which Receival Services is provided to the Grower by the Company.

Storage Services means the storage of Grain at a Company Facility and involves:

- (a) storage;
- (b) standard Grain protection and maintenance;
- (c) dis-infestation; and
- (d) recording of relevant information.

Transfer In-store means the right of the Grower to transfer the ownership of the Commodity and the Out-turn Right to an approved party.

Warehousing means the storage of Grain of a Grower at a Company Facility.

35- Schedules

Schedule 1

Shrinkage Allowance:

0.8% of delivered weight of the Commodity for cereals, canola and Other Grains.

1.2% of delivered weight of the Commodity for Pulses.

Schedule 2

Out-turn Standards

GTA (NACMA) rules will apply to Out-turns.

Schedule 3

Please note that all charges within this schedule are per metric tonne and are GST exclusive

Minimum Out turn

Table 3: Fee Schedule for the minimum out turn of product with The Company

Out-turn Quantity (mt)	Fee
10	\$10.00
15	\$9.00
20	\$8.00
25	\$7.00
30	\$6.00
35	\$5.00
40	\$4.00
45	\$3.00
50	\$2.00

Schedule 4

Please note that all charges with in this schedule are per metric tonne and are GST exclusive

Receival Fees

Table 1: Receival and out-turn fees for commodities delivered into the site

	Cereals 11/12	Pulses 11/12
Receival	\$13.25	\$17.25
Out-turn	\$3.25	\$3.25

Warehouse and Storage Fees

Table 2: Fee Schedule for the warehousing of product with The Company

	Cereals 12/13	Pulses 12/13	Cereals 11/12	Pulses 11/12
October 2012	\$1.10	\$1.35	\$3.75	\$4.15
November 2012	\$1.10	\$1.35	\$5.05	\$5.25
December 2012	\$1.10	\$1.35	\$2.15	\$2.35
January 2013	\$1.10	\$1.35	\$2.15	\$2.25
February 2013	\$1.10	\$1.35	\$2.15	\$2.25
March 2013	\$1.10	\$1.35	\$2.15	\$2.25
April 2013	\$1.10	\$1.35	\$2.15	\$2.25
May 2013	\$1.60	\$2.35	\$2.15	\$2.25
June 2013	\$1.60	\$2.35	\$2.15	\$2.25
July 2013	\$1.60	\$2.35	\$2.15	\$2.25
August 2013	\$1.60	\$2.35	\$2.15	\$2.25
September 2013	\$3.20	\$5.20	\$5.15	\$5.15

Grain Management Fees

BLENDING

If blending is requested by the Client a Blending Fee \$5.00 / MT will apply in addition to any other relevant charges.

IDENTITY PRESERVATION

If Identity preservation is requested by the Client a Fee of \$15.00/ MT will apply in addition to any other relevant charges

Administration Fees

If Client to Client transfers are required a Transfer Fee \$0.20 / MT will apply.