

**STORAGE & HANDLING AGREEMENT
2023 / 2024**



**NANDALY GRAIN CO-OPERATIVE LTD.
ABN 25 288 115 884**

1st November 2023 – 31st October 2024

www.nandalyco-op.com.au

Effective from 1st November 2023

Agreement Date:

This Agreement relates to the receipt, storage and handling of the Commodity pursuant to these storage and handling terms and conditions as follows:

The Agreement is between:

STORER: NANDALY GRAIN COOPERATIVE LTD (ABN 25 288 115 884)
Contact: Jon Bucknall
Address: PO Box 164, Boort VIC 3537
Phone: 0447 652 716
Email: jon@boortco-op.com.au

And CLIENT:

Contact:
Address:
ABN:
Phone:
Email:

The parties enter into this Agreement on the following terms and conditions:

1. AGREEMENT

- 1.1 The Storer agrees to provide Services to the Client for the Commodity for the fees specified in Schedule 1.
- 1.2 Each delivery of Commodity by or for the Client and each payment made by the Client to the Storer represents the Client's unequivocal and irrevocable acceptance that this Agreement applies as a legally binding contract between the Storer and the Client regardless of whether it is signed.

2. RECEIVAL

- 2.1 The Storer will Receive deliveries of the Commodity:
 - (a) in accordance with Grain Trade Australia Ltd (**GTA**) Trading Standards and any GTA sampling methodology unless otherwise agreed; and
 - (b) subject always to the terms of this Agreement.
- 2.2 The Storer may, at its discretion, accept or refuse to receive the Commodity for Storage, based on quality, hygiene, safety and its site capacity and efficiency.

- 2.3 The Storer's weighbridge and quality testing data recorded on Receipt shall be prima facie evidence of the quantity, quality, variety, grade, standard, specification and condition of the Commodity Received and being stored.

3. TESTING

- 3.1 The Client acknowledges that Receipt and Outturn testing is conducted on samples taken in accordance with GTA Trading Standards and any GTA sampling methodology unless otherwise agreed.
- 3.2 The Client acknowledges that there may be a variation in results between Receipt tests and Outturn tests and that such variation is not a breach of or default under this Agreement.
- 3.3 The Storer warrants only that it will conduct the testing in accordance with the Receipt and/or Outturn Standards as appropriate. The Storer makes no other warranty or guarantee in relation to the received, stored or out-turned grain or testing, including, but not limited to, that malting barley will germinate after Outturn.

4. STORAGE

- 4.1 The Commodity Received and Stored may be commingled in a Cell with commodity of the like or similar kind without notice to the Client, in which case the commingled Bulk shall be jointly owned by all parties whose commodity has been so commingled (regardless of whether the type and specification of the Bulk is the same as each or any commingled commodity as recorded on receipt) to the exclusion of all other persons including but not limited to the Storer.
- 4.2 This Agreement shall not be construed as a lease of any storage facilities or land upon which any storage facility is located.
- 4.3 If the Commodity has not been removed before the end of the initial term the Client will be bound by the terms of any new season Agreement 28-business days from the Storer giving notice of the terms of any new season Agreement.

5. OWNERSHIP & LIEN

- 5.1 The Storer has possession of the stored Commodity and a lien in respect of all monies payable by the Client to the Storer, including in respect of any claims that the Storer has or may have against the Client, but otherwise has no legal or equitable title to the Commodity unless it is an owner of the Commodity.
- 5.2 To the extent permitted by law and for the purposes of enforcing such lien, the Storer shall be entitled to retain possession of the whole or any part of the Commodity until all amounts due and payable are paid, or to sell any or all of the Commodity in such a manner as it sees fit and the proceeds of sale shall be applied to the satisfaction of the amounts due to the Storer and the costs of effecting such sale and the balance shall be paid to the Client. The Client irrevocably appoints the Storer as its agent and attorney to enforcing its lien.

6. TREATMENT

- 6.1 The Storer may, at its expense, treat the Commodity with chemicals in accordance with industry practice to prevent infestation, disease and/or contamination at all times within applicable levels as determined by industry maximum residue limits unless otherwise specified. Where fumigants are applied, it is acknowledged by the Client that the Commodity will not be accessible for outturn for a period of approximately four (4) weeks from application. The period will be determined at the reasonable discretion of the Storer.
- 6.2 The Storer is not required to provide notice or obtain the Client's approval to treat the Commodity.
- 6.3 The Storer will not be liable for any delay in outturning the Commodity as a result of the Storer treating the Commodity in accordance with this clause.

7. SHRINKAGE

- 7.1 The Storer's records will include a shrinkage allowance as specified in Schedule 1 from the first delivery of each load of Commodity received in the Client's name, excluding internal title transfers.
- 7.2 Receival fees will be levied against the delivered tonnage, but all other charges will be levied against the shrunk tonnage.

8. OUTTURN ENTITLEMENT

- 8.1 The Storer will maintain an electronic record of weights, types, grades and standards of the Client's Commodity Received, Outturned and Transferred, subject to shrinkage allowance, the running balance of which shall be the Client's Outturn Entitlement. The Storer's electronic records will be prima facie evidence of the Client's Outturn Entitlement.
- 8.2 The Client must give the Storer at least one (1) day's written notice of a request to Outturn Commodity in the form of the Commodity Outturn Order (**Outturn Request**) advising:
 - (a) Quantity;
 - (b) Type/Grade/Standard;
 - (c) Name of Transport Provider; and
 - (d) Estimated time of arrival of Transport Provider.
- 8.3 The Storer will confirm particulars of outturn (**Outturn Confirmation**) as soon as is practicable following receipt of an Outturn Request under clause 8.2.
- 8.4 The Client acknowledges that the Storer has no obligation to outturn Commodity other than as provided in an Outturn Confirmation.
- 8.5 If the Outturn Request is for the entire Outturn Entitlement, and the actual tonnage outturned to the Client exceeds the Client's Outturn Entitlement, the Client must either pay

the Storer for the excess at the Washout Price or replace the excess by using other grades as negotiated and agreed with the Storer.

- 8.6 If the Outturn Request is for the entire Outturn Entitlement, and the actual tonnage outturned is less than the Client's Outturn Entitlement, the Storer may, at its discretion, either replace the physical shortfall in the Client's Outturn Entitlement or pay the Client for the deficiency in the outturn entitlement at the Washout Price.
- 8.7 For the purpose of Clauses 8.5 and 8.6, "**Washout Price**" for the Client's grain, unless otherwise agreed, is the spot market price determined by an average of three independent brokers calculated based on the day that the Client is advised of the variation.
- 8.8 The Client will, at the Client's expense, remove the Commodity from the storage as soon as is practicable after receipt of a notice from the Storer requiring it to do so.

9. HOURS OF OPERATION

- 9.1 The Storer will set hours of operation during the harvest period and advise the Client.
- 9.2 Post-harvest receipt of Commodity is to generally occur between 8.00am and 5.00pm Monday to Friday but may also be extended beyond these hours by agreement between the Storer and the Client.
- 9.3 Outturn of Commodity is to generally occur between 7.30am and 4.00pm Monday to Friday but may also be extended beyond these hours by agreement between the Storer and the Client.
- 9.4 The Storer has discretion in relation to the days and times that the storage facilities will be kept open for business, and that the Storer provides no guarantee that the storage facilities will be open on any particular days or any particular times.

10. POSTING PRICES

- 10.1 The Client may instruct the Storer to post, amend or withdraw prices at the Storer's facility at any time during any day.
- 10.2 The Storer will use its best endeavours to comply with the Client's instructions but accepts no liability for any errors in posting the Client's price, or any delay in posting and/or withdrawing the Client's price.

11. DAMAGES AND DOWNGRADES

- 11.1 Commodities will be graded on Receipt to the GTA Trading Standards using an industry compliant testing regime.
- 11.2 If the outturned Commodity is of lesser grade and/or quality than the standard on Receipt, then the Client must:

- 11.2.1 Give the Storer notice of any potential claim which it has against the Storer in respect of the Commodity received by the Client as soon as the issue is known and before it has been unloaded from the transport to which it was outturned from the Storer. The relevant Commodity will be deemed to be the correct quality, grade and standard, free of contamination and other defects if no such notice has been received within 24 hours from outturn;
 - 11.2.2 Provide the Storer with a sample of the outturned grain the subject of the claim; and
 - 11.2.3 Allow the Storer to test the Commodity and compare this sample with a sample of grain retained by the Storer on outturn of grain from the site.
- 11.3 In the event of a dispute in relation to the grade/quality of the Commodity or the testing procedure used at the Storer's facility or the delivery destination, an independent sample will be taken at the delivery destination and will be sent to Commodity Inspection Services (CIS), or another Client approved testing agency, who will conduct an independent test of the Commodity which will determine whether the Commodity meets GTA Trading Standards or is non-compliant. If CIS, or any other Client approved testing agency, finds that the Commodity is not compliant with the GTA Trading Standard that it was received under, the Storer will be liable for any costs associated with return of non-compliant Commodity and re-delivery of compliant Commodity including, but not limited to, freight, dockage and independent testing.
- 11.4 The Storer may, in its discretion, mitigate or satisfy a claim in respect of downgraded Commodity by:
- 11.4.1 averaging the quality parameters of the downgraded Commodity with other road trucks outloaded to the Client on the same day;
 - 11.4.2 substituting (at the Storer's expense) other Commodity of the same type of the required grade and quality; and/or
 - 11.4.3 retaining the downgraded Commodity and providing compensation using the following formula.

Tonnage X fair market value of non-reclassified Commodity.

- 11.4.4 Compensate for the downgraded commodity using the following formula:

Tonnage X (fair market value of non-reclassified Commodity less fair market value of reclassified Commodity)

12. TRANSFER

- 12.1 The Client may only transfer the Commodity to a third party (**Purchaser**) by completing and executing a Title Transfer in the form set out in Schedule 2 (**Warehouse Transfer Form**).

- 12.2 Title in the Commodity is not transferred until the Transfer Form is executed by the Client, the Purchaser and the Storer and the Storer has notified the Client and the Purchaser that the transfer has been executed.
- 12.3 The Client warrants that the Purchaser is on notice of these terms and conditions and has agreed to be bound by them.
- 12.4 The Storer may refuse to execute a Warehouse Transfer Form until any overdue amounts owing to the Storer by either the Client or the Purchaser have been paid in full.

13. PAYMENT

- 13.1 In accordance with this Agreement, the Client must pay the Storer all charges and fees specified in Schedule 1.
- 13.2 All accrued charges and any costs payable on any account in respect of stored Commodity must be paid by the Client in accordance with the invoice rendered by the Storer.
- 13.3 The full amount of each invoice rendered by the Storer must be paid by the Client within thirty (30) days of the date of that invoice, by telegraphic transfer or bank transfer to the Storer's nominated bank account, free of expense to the Storer.
- 13.4 The Client must submit a remittance advice clearly identifying the invoice/s being sent to the following email address:

EMAIL: admin@nandalyco-op.com.au

- 13.5 The storage fees set out in Schedule 1 shall apply only from the date of this Agreement to 31st October of the year following commencement and may, on first providing the Client 28-days' written notice, be varied by the Storer in its discretion annually on that date.
- 13.6 The Storer and Client acknowledge that all fees and charges payable as stated in this Agreement have been calculated on a GST exclusive basis unless otherwise stated.

14. CARRY OVER OF COMMODITY

If any Commodity remains in the Storer's facilities on 1 November in any year (**Carry-Over Date**), the Client must pay the Storer the applicable monthly storage fees as listed in in Schedule 1 up to the Carry-Over Date, and the Carry-Over Fees as listed in Schedule 1.

15. CHAIN OF RESPONSIBILITY

- 15.1 Transport providers may be subject to load-time slotting during peak Reival and Outturn periods, at the discretion and management of the Storer.
- 15.2 The Client acknowledges and warrants that:

- (a) it is aware of and is bound by the *Heavy Vehicle National Law (HVNL)* including without limitation those parts of the HVNL commonly referred to as the *Chain of Responsibility*;
- (b) it has policies and procedures in place to ensure that it is compliant with the HVNL and will produce evidence of and copies of those policies and procedures on request;
- (c) it will indemnify the Storer in respect of any liability incurred by the Storer arising solely from the Client's failure to comply with its obligations under the HVNL; and
- (d) to the extent that any obligation of the Storer under this agreement conflicts (in the reasonable opinion of the Storer) with its obligations under the HVNL, the obligations under the HVNL prevail.

16. INTEREST

If any payment is not made on or before the due date for payment the Client must pay interest on any overdue amount at a rate of 1.5% per calendar month, calculated daily, unless otherwise agreed. The Client shall also be liable for any legal costs incurred by the Storer in recovering or seeking to recover overdue amounts on an indemnity basis.

17. LEVIES & TAXES

- 17.1 Any industry, statutory or government levies which are not included in the contract prices shall be adjusted for in any related payments.
- 17.2 Where a Goods and Services Tax (**GST**) is applicable to the storage per these terms and conditions, subject to the issuing of a valid tax invoice, the Storer will recover from the Client an amount on account of GST, and this amount is to be calculated by multiplying the price for the supply by the prevailing GST rate.

18. WEIGHTS & MEASURES

- 18.1 The Storer will ensure that all weights are determined by a registered weighbridge.
- 18.2 Any Commodity testing and quality testing equipment the Storer uses will be provided at its expense and in line with industry practice.

19. RECORD KEEPING

- 19.1 The Storer will maintain and keep complete and accurate electronic records of all commodities stored by it (including the Commodity) and of all actions taken by it in relation to the stored Commodity.
- 19.2 Such records will be sufficient, as a minimum, to identify the amount, location and ownership of any stored Commodity, including joint ownership of any commingled commodity.
- 19.3 The Storer will provide the Client with secure access to its online warehouse portal, from which the client can obtain 'live' details of its stored Commodity and Outturn Entitlements including, but not limited to, receipts, stock on hand reports and stock movements.

19.4 The Storer agrees that all documentation must be kept in accordance with statutory requirements and available for inspection upon request to authorised persons representing the statutory authority.

20. INSOLVENCY

20.1 In the event of the Storer's insolvency, the Client or any Purchaser remains the legal and beneficial owner of the Commodity and/or of a proportionate share of any Bulk, regardless of whether the bulk is of the same grade and standard as the Commodity recorded on Receipt.

20.2 Subject to any relevant provisions of the Corporations Act, the Client will be entitled to immediate discharge of its Commodity on demand, subject to any lien.

21. TERMINATION

21.1 This Agreement may be terminated by agreement of the Parties.

21.2 This Agreement may be terminated by the Storer with immediate effect if:

- (a) The Client suffers an insolvency event, being the commencement of liquidation, insolvency or winding up of the Client (except for the purpose of solvent amalgamation or restructure), or upon the appointment of an administrator, receiver, liquidator, statutory manager or trustee of property over all or any substantial portion of the Client's assets or undertakings, or upon assignment, arrangement or compensation for the benefit of the Client's creditors, or upon the Client being unable to pay its debts in the ordinary course of business, or upon any act of bankruptcy; or
- (b) The Client commits a breach of any term of this Agreement which is not capable of being remedied, or if capable of being remedied, has not been remedied within a period of 14 days from the date the Storer gives the Client a notice to remedy the breach.

21.3 Within 28 days of termination of the Agreement, the Client must remove any of its Commodity from the Storer's facility. The Storer may dispose of any of the Client's Commodity remaining after that time, retaining any proceeds of sale necessary to cover outstanding amounts owed to the Storer as well as any costs of sale or disposal with the balance to be remitted to the Client.

21.4 Termination does not affect any rights or remedies a Party may otherwise have.

22. EXCLUSION OF LIABILITY

22.1 Unless otherwise stated, the Storer is not liable for delay in delivery, misdelivery, damage, destruction, contamination or loss of Commodity unless caused by the gross negligence of the Storer.

- 22.2 The Client acknowledges that the Storer is unable to test on receipt for germinative quality of barley, toxic or other chemical residues, genetically modified seed or other contamination and is not liable for any claims, damages or loss associated with non-conformance to industry standards where the attribute cannot be reasonably and practically ascertained by the Storer on receipt.
- 22.3 The Client shall indemnify the Storer against and release the Storer from any and all losses (including consequential and indirect losses), costs, damages and expenses suffered or incurred by the Storer arising directly or indirectly out of or in relation to any breach or non-performance by the Client of its obligations under this Agreement, any claim by a third party relating to the Client's Commodity (including the exercise of any claim or right under the PPSA), or any claim by a third party regarding a transfer of the Commodity, except to the extent such loss, costs, damages or expenses were caused by the gross negligence of the Storer.
- 22.4 The Client acknowledges that any transportation of the Commodity is at the Client's risk, including without limitation, transportation of the Commodity arranged by or on behalf of or at the request of either the Client or the Storer.
- 22.5 The Storer is not liable for, and the Client releases the Storer from any direct, indirect or consequential loss, damages or costs, caused by or otherwise relating to the storage or handling of any commodity contaminated as described in clause 22.2.
- 22.6 The Client acknowledges and agrees that the only warranties provided by the Storer pursuant to this Agreement are those expressly set out in this Agreement and to the maximum extent permitted by law, the Storer excludes all conditions implied by law including those contained in the *Competition and Consumer Act 2010* (Cth). In the event that the Storer cannot lawfully exclude such implied warranties and conditions, the Storer's liability shall be limited to the cost of re-supply of the relevant Services for payment to the Client of the cost of such Services.

23. INSURANCE

- 23.1 The Storer is under no obligation to insure the Commodity against loss, damage or destruction.
- 23.2 The Client will at all times during this Agreement keep the Commodity insured against all risks while it is held at the nominated facility/facilities.
- 23.3 The Client will ensure that the Storer is named in all relevant insurance policies as a joint insured in its capacity as custodian or, alternatively, a waiver of subrogation rights against the Storer is to be included in all policies.
- 23.4 The Storer reserves the right to request the Client to submit evidence of the above.

24. DOMICILE

24.1 This Agreement, and the rights and liabilities of the parties under this Agreement, will be governed by the law of the Victoria. The courts of Victoria will possess territorial jurisdiction to hear and determine any cause of action arising under this Agreement

25. RULES OF TRADE

These terms are subject to the GTA Trade Rules currently in effect, except to the extent the same are in conflict with the terms expressed herein. In the event of any conflict between these terms and the Trade Rules, these terms will prevail.

26. ARBITRATION

26.1 Any dispute arising out of this Agreement and these terms and conditions, including the existence of the Agreement and any question of law arising in connection therewith, shall be referred to arbitration in accordance with the Dispute Resolution Rules of GTA in force at the commencement of the Arbitration, and of which both parties hereto shall be deemed to be cognizant.

27. FORCE MAJEURE

27.1 For the purpose of this Agreement, a “Force Majeure Event” affecting a Party means anything outside that Party’s reasonable control including without limitation:

- (a) Accident, fire, adverse weather conditions, flood, tidal conditions, earthquake, explosion, blockages of ports, civil commotion, outbreak of hostilities, terrorist act, declaration of war, war, invasion, rebellion, epidemic, pandemic or declarations of a state of emergency;
- (b) Strikes, stop works, lockout, boycotts or any other form of labour disputes or labour shortage;
- (c) Breakdown, damage or destruction of any of the Storer’s storages or facilities;
- (d) Failure, disruption or delay in transportation;
- (e) Executive or administrative order or act of either general or particular application of any Government or any official purporting to act under the authority of that Government, prohibitions or restrictions by domestic or foreign laws, regulations or policies, quarantine or custom restrictions or prohibition on export; and
- (f) Acts or omissions of any third party (including without limitation Governments, Government agencies, subcontractors or Clients).

27.2 Suspension of obligations – If a Party is wholly or partially precluded from complying in the normal manner required by this Agreement with its obligations under this Agreement by a Force Majeure Event, then the affected Party’s obligations to perform in accordance with the terms of this Agreement will be suspended for the duration of the Force Majeure event.

27.3 Notice – As soon as possible after Force Majeure Event arises, the Affected Party must notify the other Party of:

- (a) the nature of the Force Majeure Event;
- (b) the cause of the Force Majeure Event;
- (c) which obligations the Affected Party believes it is wholly or partially precluded from complying with as a result of the Force Majeure Event;
- (d) the extent to which the Force Majeure Event precludes the Affected Party from performing the Affected Obligations;
- (e) the expected duration of the delay arising as a result of the Force Majeure Event;
- (f) the steps that are being taken to minimise the impact of the Force Majeure Event; and
- (g) the steps which would be taken (subject to the Parties reaching an agreement as to the payment of any additional costs involved) to minimise the impact of the Force Majeure Event.

27.4 Minimisation of impact – upon receiving a notice under clause 27.3 the Parties will meet to discuss and agree:

- (a) what action can be taken to minimise the effect of the Force Majeure Event on the performance by the Affected Party of the Affected Obligation;
- (b) whether the Affected Party is able to work around the Force Majeure Event either to prevent the delay in the performance of the Affected Obligation or to minimise the impact of that delay; and
- (c) what modifications or additions to the terms of this Agreement, or any other agreements between the Parties (including without limitation any modifications or additions relating to the appointment of any additional costs), are required to give effect to any proposal to minimise the effect of the Force Majeure Event.

27.5 Obligation to Mitigate – the Affected Party must:

27.5.1 keep the other Party fully informed of its plan to minimise the effect of the Force Majeure Event; and

27.5.2 subject to reaching an agreement concerning any modifications or addition required to give effect to any proposal to minimise the effect of the Force Majeure Event:

- (a) comply with all reasonable requests made by the other Party relating to the prevention or minimisation of the impact of the Force Majeure Event; and

- (b) use all reasonable endeavours to resolve, and minimise the impact of, the Force Majeure Event.

27.6 Payments – an obligation to pay money is never excused by a Force Majeure Event.

27.7 Labour Disputes – the requirement to use all reasonable endeavours to resolve or minimise the impact of the Force Majeure Event will not require either Party to settle any strike, lockout, boycott or other dispute or claim, or any demand by a third party, on the terms contrary to the wishes of that Party.

28. SIGNATORY WARRANTY

The person who signs this Agreement on behalf of the Client warrants that he or she is authorised to enter into legally binding contracts on behalf of the Client.

29. AMENDMENT

This Agreement may only be amended in writing signed by both Parties and not in any other manner.

30. WAIVER

30.1 The failure by any Party at any time to enforce any of its powers, remedies or rights under this Agreement will not constitute a waiver of those powers, remedies or rights or affect the Party's rights to enforce those powers, remedies or rights at any time.

30.2 Any single or partial exercise of any power, remedy or right does not preclude any other or further exercise of it or the exercise of any other power, remedy or right under this Agreement.

31. SEVERANCE

If any provision of the Agreement is prohibited, invalid or unenforceable in any jurisdiction, the provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or enforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

32. CHANGE IN LAW

In the event of a change in law after the commencement of this Agreement which results in an increase in costs for the Storer in the provision of Services, the Storer may amend this Agreement on provision of three (3) months' notice to the Client.

33. ENTIRE AGREEMENT

This Agreement contains the entire Agreement between the Parties. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect. Any provision of the Agreement which

is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the effect of the Agreement.

34. ASSIGNMENT

No Party may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party, and no assignment of any obligation will be effective until the assignee has covenanted in favour of, and in a form satisfactory to, the non-assigning Party, to assume and to be bound by the obligations assigned.

35. INTERPRETATION

In this Agreement unless contrary intention appears:

- (a) a reference to this Agreement or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or any other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
- (c) the singular includes the plural and vice versa;
- (d) the word "person" includes firm, body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) headings are inserted for convenience and do not affect the interpretation of this Agreement; and
- (g) a reference to a clause, schedule, annexure or appendix is a reference to a clause, schedule, annexure or appendix to this Agreement and references to the Agreement include any recital, schedule, annexure or appendix, unless otherwise indicate.

36. DEFINITIONS

The following words have the corresponding following meanings in this Agreement unless a contrary intention appears:

Addendum means any addendum modifying this Agreement signed by the Storer and the Client.

Bulk means, in the case of commingled grain,

(a) all grain of the same kind at the Facility; failing which

(b) all grain in a Cell.

Business Day means any day on which the principal office of the Storer is open for business and does not include Saturday, Sunday or a day that is a gazetted public holiday.

Cell means a silo, shed, bunker, bunker bag or other physical unit for storage of a Commodity.

Charges means those charges calculated in accordance with Schedule 1.

Client means a person that uses the Facilities for storage of Commodity and may, if the context permits, include the Client.

Commingling is the situation where different grades of Commodity are stored in the same Cell.

Commodity means the commodity specified in Schedule 1 and (as the context requires) any bulk into which the Commodity has been commingled.

Commodity Outturn Order means the form at Schedule 3.

Corporations Act means the Corporations Act 2001 (Cth) any successor.

Damaged commodity means Commodity that has been damaged in an unusual incident or event to such an extent that it can no longer be classified by any Receival (Classification) Standards and is only of salvage value or suitable for disposal.

Delivered means, in respect of the Commodity, the point and time at which the Commodity first arrives at a Facility.

Facility means all Commodity receival, storage Cells and handling facilities used by the Storer in connection with the provision of Services..

Grade means the grade of Commodity of a given Season specified in the Receival Standards of that same Season, or any other grade agreed by the Parties.

GTA means Grain Trade Australia Ltd.

GST means the tax imposed by the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).

Harvest means the period of time during which Commodity may be harvested and Delivered.

Industrial Disputes includes a strike, stop-work, boycott or lockout.

Insolvency Event means in relation to a Party:

- (a) A receiver, receiver and manager, administrator, trustee or similar official is appointed over the whole or a substantial part of the assets or undertaking of the Party and is not removed within 30 days;
- (b) The Party suspends payment of its debts generally;
- (c) The Party is insolvent within the meaning of the *Corporations Act 2001* (Cth);
- (d) The Party enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- (e) An application (other than a vexatious application) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to, the Party or a resolution is passed or steps are taken to pass a resolution for the winding up or dissolution of the Party otherwise than for the purpose of an amalgamation or reconstruction, which has the prior written consent of the other Party and, in case of an application, the application is not withdrawn or dismissed within 60 days: or
- (f) An administrator is appointed under Division 2 of Part 5.3A of the *Corporations Act 2001* (Cth) and, except in the case of an appointment by the Party of its directors, is not withdrawn or removed within 14 days.

Outturn means:

- (a) The loading of Commodity from Facility for transportation to Non Storer Facility or such other place as directed by the Client;
- (b) The disposal of Damaged Commodity; or
- (c) Any other outturn required and directed by the Client for the purpose of stock accounting.

Outturn Entitlement has the meaning described at clause 8.1.

Party means, depending upon the context, either the Storer or the Client.

PPSA means the *Personal Property Securities Act 2009* (Cth)

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

Receival means the process of testing, weighing, tipping, inwardly elevating and placing of Commodity into the Facilities on behalf of a Grower or Client.

Receival and Outturn Standards means the standards as published on the Storer website in respect of Receival, at the time the Commodity is received, and in respect of Outturn, at the time of Outturn. Receival and Outturn Standards will be in accordance with GTA Trading Standards.

Season means the period in which most of the Growers' Commodity is harvested and delivered to the Storer's facilities, typically commencing in October in one year and going through to the February of the following year.

Services means the services provided by the Storer to the Client under this Agreement in respect of all Commodities at the Facilities and includes:

- (a) Posting prices;
- (b) Receival;
- (c) Testing;
- (d) Transfer;
- (e) Storage; and
- (f) Commodity handling and Outturn.

Shrinkage means the quantity of Client Commodity which is lost in the normal storage and handling process including:

- (a) Loss of mass through changes in moisture content;
- (b) Handling; and
- (c) Waste.

But does not include Commodity lost as Damaged Commodity.

Storage means storage of the Commodity in clean, dry, ventilated and in all circumstances reasonably (in the Storer's sole opinion) appropriate storage facilities including, without limitation, silos, storage bins and/or covered bunkers.

Storer means Boort Grain Co-op Ltd.

Transfer means effecting and recording in the Storer's electronic records the purchase or sale of Commodity while in storage in a Facility.

Washout Price for the purpose of clauses 8.4, 8.5 and 8.7, unless otherwise agreed, means the spot market price determined by an average of three independent brokers calculated based on the day that the Client is advised of the variation.

Waste means Commodity that, as a result of the normal handling process, has been downgraded to Commodity of no commercial value, for example, mouldy grain, grain mixed with dirt and stones.

SIGNED on behalf of the **Storer** : **Nandaly Grain Co-operative Ltd.**

in the presence of:

Signature

Witness

Name of signatory (block letters)

Name of witness (block letters)

Position

Position

Date

SIGNED on behalf of **Client** :

in the presence of:

Signature

Witness

Name of signatory (block letters)

Name of witness (block letters)

Position

Position

Date

SCHEDULE 1.

STORER AND FACILITIES

- **NANDALY GRAIN CO-OPERATIVE LTD.**

For grain stored at Bishop Street, Nandaly VIC 3533

Site Manager : Terry Elliot

M: 0427 040 814

E: nandalygraincoop@bigpond.com

Assistant Manager: Zac Martin

M: 0434 621 131

Weighbridge : 03 5078 1262

NOTICES

All correspondence and notices to be sent to:

Nandaly Grain Co-operative Ltd

PO Box 164

Boort VIC 3537

PAYMENT DETAILS

Nandaly Grain Co-Operative Ltd

BSB : 633-000

Acct Number: 138-336-458

The Client must submit a remittance advice clearly identifying the invoice/s being sent:

EMAIL: admin@nandalyco-op.com.au

SCHEDULE OF FEES AND CHARGES

FEES & CHARGES PER MT				
NANDALY GRAIN CO-OP - SEASON 2023/24	WHEAT	MALT BARLEY	FEED BARLEY	PULSES
Receival Fee	\$ 8.50	\$ 8.50	\$ 8.50	\$ 8.50
Outturn Fee	\$ 7.00	\$ 7.00	\$ 7.00	\$ 10.00
Monthly Storage 1st March 2024 - 31st Oct 2024	\$ 1.65	\$ 1.65	\$ 1.65	\$ 1.65
Carryover Fee (one off) 1st November 2024 Nil monthly fee until 1st March 2025	\$ 8.00	\$ 8.00	\$ 8.00	\$ 8.00
Shrink	0.65%	0.65%	0.65%	1.00%

Additional Service Fees

- Top loading containers will incur a fee of \$3.00/mt
 - NB – free on truck does not mean free in container.

Invoicing Schedule

- All fees are exclusive of GST.
- Receival fees will be invoiced monthly during the harvest period.
- Storage is invoiced on a monthly basis for stocks held on the first day of the month.
- Interest will be charged on overdue accounts as per Clause 17.

SCHEDULE 2. - WAREHOUSE TITLE TRANSFER FORM

SELLER (Owner of warehoused tonnes)		
NAME :		
CONTACT PERSON:		
ADDRESS:		
NGR:		
TEL:		
FAX:		
EMAIL:		

BUYER		
NAME:		
CONTACT PERSON:		
ADDRESS:		
NGR:		
TEL:		
FAX:		
EMAIL:		

STOCK TO BE TRANSFERRED

SEASON	GRADE	SITE	TICKET NUMBERS	CONTRACT / REFERENCE	TONNES
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/					
/					
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AUTHORISATION

I, the above Seller of grain, confirm that the tonnage of grain has been sold to the Buyer and agree to accept any charges applicable as per Boort Grain Co-operative Warehouse Terms & Condition. I authorise Boort Grain Co-operative the Title Transfer for buyer approval.

Seller signature: _____

Date: _____

PLEASE EMAIL TO: jon@boortco-op.com.au

OFFICE USE ONLY			
DATE RECEIVED:	<input type="text"/>	RECEIPT NUMBER:	<input type="text"/>
DATE TRANSFERRED:	<input type="text"/>	SIGNED:	<input type="text"/>

SCHEDULE 3. – COMMODITY OUTTURN ORDER

OWNER NAME :

OWNER REFERENCE:

CONTACT:

ORDER DETAILS

SITE:

DESTINATION:

START DATE:

CARRIER NAME:

END DATE:

CARRIER PHONE:

COMMODITY:

ADDITIONAL INFO:

GRADE:

QUANTITY (MT):

AUTHORISATION

AUTHORISED BY:

PHONE:

EMAIL:

I, the undersigned, verify that the information contained in this form is true and correct to the best of my knowledge

SIGNED:

All fields must be filled in correctly to ensure the form is valid

For full terms & conditions please refer to current storage & handling agreement

Please return by email to nandalygraincoop@gmail.com