

AGREEMENT AND APPOINTMENT OF AWN AS WOOL SELLING BROKER

WOOL CONSIGNMENT, STORAGE AND SALE OF WOOL TERMS & CONDITIONS – V1 01/09/2018

1. APPOINTMENT OF AWN AS WOOL SELLING BROKER

- (a) The Grower agrees to appoint AWN as their Wool Selling Broker by consigning their wool to an AWH store as nominated by AWN acting reasonably.
- (b) These Terms and Conditions govern the consignment, storage and sale of wool.
- (c) The Grower authorises AWN to sell their wool in accordance with any instruction the Grower may give to AWN, or otherwise, at the discretion of AWN.
- (d) The Grower also agrees that the proceeds of any sale of the wool are to be paid to AWN and that AWN may deduct from those proceeds and retain for itself all of the Fees, Costs and Payments, under Clauses 5 (a) to (d), payable by the Grower to AWN under this agreement in relation to the wool sold before forwarding the balance to the Grower.
- (e) If the proceeds of the sale of the wool are insufficient to pay the Fees, Costs and Payments payable by the Grower in relation to that wool, the Grower must pay AWN, on demand, all outstanding Fees, Costs and Payments in relation to the wool.

2. TITLE

- (a) The Title to the Wool remains with the Grower until it passes to the Buyer upon confirmation of the sale of the wool by the Buyer and after full payment is received from the Buyer for the wool purchased.
- (b) Title to the Wool does not pass to AWN unless AWN becomes the Buyer of the wool in which case Clause 2 (a) will apply.

3. RISK & INSURANCE

- (a) AWN has procured Marine Transit (Sheep's Back to Store) Insurance which covers only those risks as described in this document, and is subject to such terms, conditions, exclusions and limitations as are reasonably available from a reputable insurer.
- (b) If a Grower does not wish to have the benefit of this protection, the Grower must notify AWN in writing prior to appointing AWN as their Wool Selling Broker and consignment of their wool to AWN.
- (c) AWN will accept risk in the Wool for loss or damage for a period:
 - i. Commencing when the Grower pens their sheep for shearing or the day AWN is appointed as the Wool Selling Broker (whichever is the latter), and
 - ii. Ending 90 days after the day the Grower pens their sheep for shearing, and
 - iii. If the Wool has not been delivered to an AWH store at the end of that period, AWN will accept risk in the wool only while it is in transit to an AWN nominated store, up to and including 21 days of interim storage whilst in transit.
 - iv. From the date of arrival at an AWH store as nominated by AWN until date of sale.
- (d) If the wool is lost, stolen, destroyed or damaged during the period in which AWN accepts risk in the wool, AWN will, subject to Clause 3 (c), compensate the Grower for the loss of, or damage to the wool.
- (e) The amount of any such compensation will be limited to an amount equal to the market value of the wool as at the date of the sale of the clip, or if the wool at the time of the loss is subject to a contract of sale, the price of the wool under that contract of sale, less the Grower's usual selling costs.
- (f) The Grower acknowledges that they must take all reasonable precautions to ensure that the wool is kept safe and secure while under the Grower's care and control and records of bale numbers, bale weights and descriptions corresponding to those declared in the classer's specification provided to AWN in respect of the wool are maintained.
- (g) The Grower further acknowledges and agrees that AWN will have no obligation to compensate the Grower under Clauses 3 (a) to (f), if, as a result of the Grower's actions, omissions, or failure to act, any claim by AWN in relation to the wool is declined by its insurer.

4. DELIVERY

- (a) The Grower will arrange, at their own cost, for the delivery of the wool to an AWH store as nominated by AWN acting reasonably.
- (b) The Grower acknowledges that AWN is authorized as their Wool Selling Broker to execute any form, document or agreement necessary for the consignment of the wool to an AWH Wool Store on behalf of the Grower.

5. FEES, COSTS AND PAYMENTS

- (a) The Grower agrees to pay AWN any commission payable to AWN in accordance with the terms and conditions applicable to the manner of sale selected by the Grower, and
- (b) All other purchases through AWN by the Grower (woolpacks, etc), all AWN Wool / Shearing Advances received together with any wool advance interest where applicable, all other costs and expenses incurred by AWN in relation to the freight, handling, testing and inspection of the wool prior to its sale (including storage charges) and all other costs in connection with the sale of the wool (including but not limited to duties, taxes, industry service charges and levies).
- (c) All Fees, Costs and Payments are due and payable on the earlier of date of the sale of the wool, the termination of this contract, or if applicable, on demand by AWN.
- (d) If AWN incurs any costs on behalf of the Grower after the date on which AWN pays the Grower the balance of the wool sale proceeds, the Grower must re-imburse AWN for such costs immediately upon demand.

6. RIGHT OF SET OFF

- (a) AWN in its sole discretion, may at any time set-off any amount owing by the Grower to AWN on any AWN account held on the Grower's behalf whatsoever whether or not the amount owing by the Grower has become due or payable.

7. AWN'S LIABILITY

- (a) The Grower acknowledges that AWN's liability under this agreement is limited to its duty to compensate the Grower in the manner set out in clause 1.
- (b) AWN excludes liability for any and all indirect or consequential losses or damages (including loss of profits or lost opportunity) together with any liability to any third party arising from the wool itself or the Grower's handling of the wool, howsoever arising and notwithstanding the fact that such losses or damages were reasonably foreseeable.

8. GROWER LIABILITY AND WARRANTIES

- (a) The Grower acknowledges that the wool is, to the best of their knowledge, in good condition and accurately described in any documents or materials provided to AWN relating to the wool.
- (b) If any wool is subject to any security interest, the Grower warrants that they must disclose that interest to AWN and have procured, prior to signing / entering this agreement and appointment, the consent of the holder of that security interest to the Grower's entry into this agreement and appointment, in such form as AWN reasonably requires, including the security holder's written approval and authorization of the payment of all Fees, Costs and Payments, under Clauses 5 (a) to (d), in relation to the wool.
- (c) If the Grower proposes to grant any new security interest over the wool, the Grower must first obtain AWN's written approval, which will be conditional on the proposed security holder first granting the kind described in clause 8 (b).
- (d) The Grower further warrants that they have not appointed another Wool Selling Broker to sell their wool.
- (e) The Grower indemnifies and keeps AWN indemnified at all times against all liabilities, losses, damages, costs or expenses incurred or suffered by AWN and all actions, proceedings, claims or demands made against AWN relating to the quality or condition of the Grower wool including but not limited to the description or the National Wool Declaration (NWD) of the wool by the Grower or Wool Classer or any other person acting on behalf of the Grower, other than any willful or negligent acts or omissions caused by AWN.

9. TERMINATION

- (a) This agreement will terminate with regard to the wool or any part of it on the date which all fees and costs relating to the wool are paid to AWN.
- (b) The Grower or AWN may terminate this agreement by notice in writing to the other if that other party:
 - (i) Commits a breach of this agreement which is incapable of remedy within 7 days after receiving written notice from the other party requiring it to do so, or
 - (ii) Is unable to pay its debts as and when they fall due,
- (c) Termination will not affect the Grower's obligation to pay all outstanding fees and costs accrued up to and including the date of termination and AWN's right to recover all Fees, Costs and Payments survives termination of this agreement.
- (d) The Grower grants AWN a Lien over the Grower's wool until all outstanding Fees, Costs and Payments under Clauses 5 (a) to (d) have been paid in full.
- (e) If this agreement is terminated before the Grower's wool is sold, AWN is entitled to retain possession of the Grower's wool until all outstanding Fees, Costs and Payments under Clauses 5. (a) to (d) have been paid in full.

10. GENERAL

- (a) If a party comprises two or more persons, this agreement applies to those persons jointly and each of them individually.
- (b) If any provision of these terms and conditions is illegal or unenforceable, it will be severed from these terms and conditions and the remaining terms and conditions will continue in full force and effect.
- (c) This agreement is governed by the laws of the State in which the consigned wool is located.
- (d) These terms and conditions may be amended by AWN from time to time, will be made available on the AWN website and will take effect from the date the amended terms and conditions are listed on AWN's website.