

Wool Consignment Conditions

1. Application

- 1.1. In these Wool Consignment Conditions, **Elders** means Elders Rural Services Australia Limited and **You** (and like expressions) refers to an owner of wool who has delivered, or committed to deliver, wool to Elders (**Wool**) for the purpose of subsequently selling that wool.
- 1.2. This Agreement is formed between You and Elders when You have delivered or have committed to deliver (including as documented in shearing stationary pack that Elders provides to You) Wool.
- 1.3. This **Agreement** is comprised of these *Wool Consignment Conditions (Terms)* and Elders then current *Conditions for the Sale, Storage and Handling of Wool* and documents incorporated or referenced under same (**Sale Conditions**). The Sale Conditions are available from Elders on request. This Agreement governs the consignment and the sale, storage and handling of Your Wool and applicable terms in the same may vary depending on the method by which You sell Your Wool. If there is any direct inconsistency between these Terms and the Sale Conditions, the Sale Conditions will take priority to the extent of any such inconsistency. You acknowledge and agree that Elders can exercise the rights set out in the Sale Conditions (including in respect of the sale of the Wool and dealings with buyers).

2. Appointment of Elders

You appoint Elders as Your agent to sell Your Wool. You authorise Elders to sell Your Wool, in accordance with any instructions You may give Elders (including by text, email or verbally) or otherwise subject to Elders' discretion or in accordance with the Sale Conditions. You must direct Elders if You wish to impose a reserve price for the Wool within the time required under these Terms. You must promptly provide all instructions and directions Elders reasonably requires to carry out Elders' obligations under the Sale Conditions (including in respect of Elders dealing with buyers).

3. Title and risk

- 3.1. Title and risk to Your Wool remains with You until it passes to the buyer in accordance with the Sale Conditions. Title to the Wool does not pass to Elders.
- 3.2. You warrant to Elders that:
 - (a) You own and are authorised to sell the Wool;
 - (b) all security interests (including as that term is defined in the *Personal Property Securities Act 2009 (Cth)*) over the Wool have been disclosed to Elders in writing prior to consignment and any new security interests will be disclosed to Elders immediately upon creation; and
 - (c) You have not appointed another agent to sell the Wool on Your behalf.

4. Payment for wool, commission and costs

- 4.1. If Elders sells Your Wool, Elders as Your agent will issue, or caused to be issued, an invoice to the buyer.
- 4.2. Elders will pay the purchase price to You, less any amounts payable by You to Elders under clauses 4.3 or 4.4 in accordance with the Sale Conditions.
- 4.3. You are required to pay the following costs and brokerage to Elders in consideration for Elders selling Your Wool:
 - (a) unless otherwise agreed, Elders' standard rate of brokerage applicable as at the date of sale;
 - (b) all costs and expenses incurred by Elders directly in connection with the sale

of Your Wool, including (without limitation) freight, handling and testing costs, and government levies, taxes or other duties;

- (c) any Wool-in-Transit Delivery Warranty fees under clause 8;
 - (d) any storage fee under clause 4.6; and
 - (e) any other amount payable to Elders on any account or to a third party under the Sale Conditions.
- 4.4. If You received a shearing advance or loan from Elders (including under Elders' 'Wool Plus' offering) in connection with the Wool (**Shearing Advance**) Elders will deduct and retain the outstanding Shearing Advance balance and any accrued interest and fees on the Shearing Advance from the proceeds of the sale of Your Wool.
- 4.5. Any amounts which You owe Elders under clause 4.3 that are not recovered from the proceeds of Your Wool sale (including because no sale occurs or the amounts are not owed until after the sale proceeds are paid to You) will be debited against Your client trading account or wool vendor account.
- 4.6. Elders may charge You a storage fee if Your Wool is held in storage for a period exceeding six months. This fee will apply from the end of the six month period. The storage fee will be charged at Elders' standard rates for storage, which are available from Elders upon request. These fees are subject to change from time to time.
- 4.7. Elders may, by written notice (**Removal Notice**) require You, within 14 days, to collect and remove any Wool held in storage for more than 24 months and You must pay all storage fees in respect of the same before collecting the Wool. If You do not remove such Wool and pay all associated storage fees in accordance with the Removal Notice, Elders may issue a written notice (**Disposal Notice**) of its intention to dispose of that Wool. If You do not remove the Wool and pay all associated storage fees within 14 days of the date of the Disposal Notice, Elders may sell the wool in accordance with clause 4.1 and deal with the proceeds in accordance with clauses 4.2 to 4.5.

5. Termination of Elders' engagement

- 5.1. Either party may terminate Elders' appointment as Your agent under the Agreement on seven days' notice in writing to the other party.
- 5.2. Termination of Elders' appointment does not affect Your obligations to pay any amounts owed to Elders under this Agreement.
- 5.3. You grant Elders a lien over Your Wool until all outstanding costs, commissions and advances under clauses 4.3 and 4.4 have been paid in full (with this contractual lien being in addition to any statutory lien Elders is entitled to in respect of the Wool). If this Agreement is terminated before Your Wool is sold, Elders is entitled to retain possession of Your Wool until You have paid all amounts owing to Elders under this Agreement.

6. GST

- 6.1. If GST is payable by a supplier on a supply made under this Agreement, then to the extent that the consideration is expressed as an amount of money (the monetary consideration) for that supply and is not stated to include an amount in respect of GST, the supplier may increase the monetary consideration by the applicable amount of GST and the recipient must pay that increased amount at the same time and to the same extent as any part of the monetary consideration that is payable to the supplier in respect of that supply.
- 6.2. Words defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning when used in this agreement in clauses concerning GST.

7. Liability

- 7.1. You indemnify and keep Elders indemnified at all times against any liabilities, losses, damages, costs or expenses incurred or suffered by Elders and all actions, proceedings, claims or demands made against Elders relating to the quality of the Wool and all actions, proceedings, claims or demands made against Elders relating to the quality or condition of Your Wool or Your Wool matching any description provided by You (or by a Wool classer or other person acting for You), other than to the extent caused by the wilful or negligent acts or omissions of Elders.
- 7.2. To the extent permitted by law, Elders' liability under this Agreement excludes all indirect or consequential losses or damages (including loss of profits, loss of contracts, loss of opportunity or loss of reputation), irrespective of how those losses were caused (including as a result of Elders' negligence), even if such losses were reasonably foreseeable.
- 7.3. Other than in respect of the WIT Delivery Warranty, Elders' liability to You for a breach of a condition, warranty or guarantee of supply (including any imposed or implied under Schedule 2 (The Australian Consumer Law) of the Competition and Consumer Act 2010 (Cth) (**ACL**), is limited to (as Elders may decide):
- (a) in the case of goods, (i) the replacement of the goods or the supply of equivalent goods, (ii) the repair of the goods, (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods, or (iv) the payment of the cost of having the goods repaired; and
 - (b) in the case of services, (i) the supplying of the services again, (ii) or the payment of the cost of having the services supplied again.
- 7.4. Subject to this Agreement and applicable laws (including the ACL), Elders excludes from this Agreement all conditions, warranties, guarantees and terms implied by statute or general law or custom except where the exclusion of any of the same would breach such laws or cause this clause to be void.

8. Wool-in-transit delivery warranty

8.1. Definitions.

In this clause 8, the following terms have the following meanings:

- (a) **Chain of Responsibility Laws** means the *Road Traffic (Vehicles) Act 2012* (WA), the "Heavy Vehicle National Law" set out in the schedule to the *Heavy Vehicle National Law Act 2012* (Qld), and laws that are substantively modelled on the "Heavy Vehicle National Law".
- (b) **Delivery Location** means, as applicable the site (in the State or Territory where the Wool is sheared) to which the Wool must be delivered, to as nominated by Elders, being the Warehoused Location or the Initial Receival Site.
- (c) **Fee** means the percentage of the sales price of Your Wool, or the potential sale price of Your Wool if it is not sold, that Elders charges for the provision of the WIT Delivery Warranty, as published from time to time on www.elders.com.au, or as otherwise agreed with Elders.
- (d) **Initial Receival Site** means, if applicable, the initial site where the Wool will be delivered prior to transport to the Warehoused Location.
- (e) **WIT Delivery Warranty** means the warranty in favour of You provided by Elders upon the assumption of a contractual delivery obligation in clause 8.3a) as limited by clause 8.5.
- (f) **Transport Documentation** means the relevant documents relating to the transport of the Wool to Delivery Centre.
- (g) **Warehoused Location** means the site where Elders will store the Wool.

8.2. Application, fee and payment

- (a) In consideration of Elders agreeing to provide the WIT Delivery Warranty in accordance with clause 8.1(a), You agree to pay the Fee to Elders in accordance with this clause 8.2.
- (b) If You do not wish to receive the WIT Delivery Warranty, You must notify Elders in writing prior to consigning Your Wool.
- (c) You direct Elders to deduct the Fee from the sales proceeds payable to You prior to those sales proceeds being paid to You.
- (d) The Fee is exclusive of GST (unless expressly state otherwise) and You will pay GST in addition to the Fee (where applicable) and will pay GST with respect to any other taxable supply in accordance with this clause.

8.3. WIT Delivery Warranty

- (a) Subject to clause 8.3(b), and in consideration of You agreeing to pay the Fee in accordance with clause 8.2(a) and otherwise to abide by Your obligations under this Agreement, Elders:
 - (i) assumes a contractual obligation to have the Wool delivered to, and stored at, the Delivery Location; and
 - (ii) warrants in favour of You that the Wool will be delivered and stored without damage.
- (b) Elders' obligations to You in clause 8.3(a) only apply where delivery of the Wool is occurring by road or rail and commences upon the sheep entering the shearing shed and ends on:
 - (i) where the Wool is sold at auction, the fall of the hammer; and
 - (ii) where the Wool is sold by private sale, when risk passes to the buyer.

8.4. Consequences of damage to wool

- (a) If, contrary to the WIT Delivery Warranty, any Wool is damaged during delivery or during storage, Elders will, subject to You having complied with Your obligations under these Terms, pay to You damages equal to:
 - (i) the value of the damaged Wool, as calculated under clause 8.4(b);
 - (ii) the amount of reasonable costs incurred by You in relation to the removal and disposal of debris, up to a maximum of \$20,000; and
 - (iii) the amount of reasonable additional costs You incur to prevent further damage to Wool that has been damaged, up to a maximum of \$20,000.
- (b) Subject to clause 8.4(a), Elders, acting reasonably, will calculate the value of the damaged Wool by having regard to the prices that comparable wool achieved, or would achieve, less in each case, any levies, cartage, commissions and other charges ordinarily payable in transactions similar to the transaction that was proposed to take place on a pro rata basis.
- (c) Elders' calculation of the value of the damaged Wool under clause 8.4(b) is final and binding unless You issue a notice of dispute under clause 11.10 within 10 Business Days of receipt of Elders' calculation. Where You issue a notice of dispute, the process in clause 11.10 will apply to resolve the calculation of the value of the damaged Wool.
- (d) You acknowledge and agree that the payment of damages in accordance with this clause 8.4 is the sole and exclusive remedy available to You in connection with any breach by Elders of clause 8, or arising from the loss of, or damage to, Your Wool and Elders is not obliged to indemnify You for loss other than for any liability that Elders may have to pay damages to You under this clause 8.4.

- (e) If Elders makes a payment in accordance with clause 8.4(a), title in the Wool to which that payment relates automatically passes to Elders.

8.5. Qualifications and limitations

- (a) Elders' obligation to pay damages in connection with these Terms, including in accordance with clause 8.4, is extinguished to the extent that:
 - (i) the Wool was not delivered, or was delivered damaged, to the Delivery Location because of Your dishonesty or fraud, or because the Wool was damaged after being stored on farm for a period of greater than 90 days after the sheep from which the Wool was shorn entered the shearing shed;
 - (ii) the Wool was damaged by:
 - (A) depreciation, gradual deterioration, mildew, mould, dampness of atmosphere variations in temperature;
 - (B) insects or vermin such as rats, mice, possums and birds;
 - (C) Your failure to store and protect the Wool in accordance (1) with accepted industry standards, or (2) any reasonable directions Elders gives You, as to storage of the Wool on farm (You will fail to properly store and protect the Wool if the Wool is not stored undercover, or is stored outside under a tarpaulin or like cover);
 - (D) any process of re-bailing, cleaning, pressing, processing or inspection of the Wool;
 - (E) inherent vice;
 - (F) Your wilful and deliberate acts; or
 - (G) the Wool was damaged indirectly or directly from livestock that is ordered by Government authorities to be quarantined or killed to restrict spread of infectious diseases;
 - (iii) You failed to carry out Your obligations in strict accordance with clause 8.1(a), including the obligation to complete the Transport Documentation completely and correctly;
 - (iv) the Wool was loaded, or transported, otherwise than in compliance with the Chain of Responsibility Laws; or
 - (v) You caused, or contributed to, the circumstances giving rise to the obligation (including any failure by You to take reasonable steps to mitigate those circumstances).
- (b) Each qualification and limitation in this clause 8.5 is to be construed and applied independently of the others and is not limited by any other qualification or limitation.

8.6. Notification of claims

If You believe that circumstances exist that would entitle it to a payment under clause 8.4(a), You must:

- (a) notify Elders of those circumstances within 48 hours of those circumstances occurring; and
- (b) provide Elders with all information reasonably required by Elders relating to the circumstances giving rise to the claim within 31 days of the relevant circumstances (including where the Wool is stolen or lost prior leaving the site the Wool was stored immediately after shearing (i) a statutory declaration from You, and (ii) any information Elders requires to be able to properly claim and recover under any insurance policy held by Elders).

8.7. Engagement of carrier

- (a) Subject to any contrary agreement, Elders will appoint You as its agent to deliver the Wool, and You or any reputable carrier You engage to deliver the Wool, will then be responsible to transport the Wool, to the Initial Receival Site or, if applicable directly to the Warehoused Location.
- (b) If You are appointed as Elders agent pursuant to clause 8.7(a), You have no authority to bind Elders, and must not represent that You have authority to bind Elders, other than specifically outlined in that clause.
- (c) You will be responsible to pay Your own costs of delivery or the costs of any carrier You engaged to transport the Wool under this clause 8.7. Where your carrier invoices Elders for such transport costs and Elders pays that invoice on Your behalf, Elders may (i) deduct an amount equal to those transport costs (plus GST) and an administration fee equal to 5% of those transport costs (**Transport Fees**) under clause 4.3(b), (ii) debit the Transport Fees to Your client account under clause 4.5, or (iii) invoice You for the Transport Fees and You must pay the same within [30] days of the date of that invoice.
- (d) You indemnify Elders against all claims, costs, liabilities, losses and expenses incurred by Elders arising from You being appointed as Elders agent under this clause 8.7 except to the extent arising from the wilful or negligent acts or omissions of Elders.

8.8. Other transport matters

- (a) Where You deliver the Wool to an Initial Receival Site, Elders will at Elders' costs arrange the transport and delivery of the Wool from the Initial Receival Centre to the Warehoused Location.
- (b) Where You request and Elders agrees to procure and engage a carrier to transport the Wool to the Delivery Location, then You must pay Elders all costs, charges and taxes that arise as a result of transport obligations being undertaken by Elders (Elders may elect to deduct an amount equal to these costs, charges and taxes under clause 4.3(b)) or debit them to Your client account under clause 4.5).

8.9. Transport documentation

- (a) You:
 - (i) consent to be, and must ensure that You are, named as the "consignor" (or a similar expression) in all relevant Transport Documentation; and
 - (ii) must ensure that all Transport Documentation is complete and correct.
- (b) Elders does not consent to be named as consignor (or any similar expression) in any Transport Documentation.

9. Sale by physical auctions

Without limiting the operation of the Sale Conditions, where Wool is to be sold by bidding at a physical auction the following apply:

- (a) on unloading at the selling centre the Wool will be checked against the wool classer's specifications that are provided with that Wool;
- (b) Wool will be organised into lots for sale at the next available auction unless You provide Elders with any instruction to delay the sale of the Wool;
- (c) a sample of Wool will be tested by AWTA and the test results for the Wool will be included in the sale catalogue and Elders will provide You with a copy of the test results (**Test Results**);
- (d) a sample of the Wool will be made available to buyers on the show floor of the selling centre and AWEX appraisers will access the Wool for unmeasured

characteristics against AWEX standards. You will be provided with this appraisal;

- (e) the appraisal together with the Test Results may be used by You to set a reserve price for the Wool by notice to Elders within any period of time set by Elders or required under the Sale Conditions; and
- (f) where no reserve price for the Wool is set by You for the Wool then the appraisal and the Test Results will be used by the auctioneer to determine an opening bid price for the Wool.

10. Amendments

- 10.1. At any time and from time to time Elders may amend the Agreement (being the Terms or Sale Condition or both) but any such amended Agreement will only commence at the time set out in clause 10.2 and will not apply to any of Your Wool that is subject to an existing Agreement.
- 10.2. Where a variation to the Agreement is to Your detriment, Elders will only make the change by providing You with at least 30 days' prior notice before the change takes effect. Where a variation is neutral or to Your benefit, Elders will publish a notice on its website, which may be accessed at www.elders.com.au, and/or any online customer account portal made available by Elders from time to time. By entering into an Agreement after the expiry of the notice period or the date the change is published on the website and/or any online customer account portal, You are deemed to have agreed to the variation to the Agreement.

11. Miscellaneous

- 11.1. Terms defined in the Sale Conditions and used in these Terms have the meaning given to such defined terms in the Sale Conditions.
- 11.2. This Agreement is governed by the laws of the State or Territory in which Elders stores the Wool.
- 11.3. If a provision of this Agreement is illegal or unenforceable, it will be severed from these terms and conditions and the remaining terms and conditions of the Agreement will continue in full force and effect.
- 11.4. The waiver of a breach of the Agreement will not be a waiver of any other breach of that provision or the breach of any other provision.
- 11.5. Where You are comprised of two or more legal entities, this Agreement applies to each legal entity jointly and severally.
- 11.6. No rule of construction applies to the disadvantage of a party because that party put forward the Agreement or any portion of it.
- 11.7. Where You are a company, a reference to the You includes the company's officers, employees and agents (except Elders) where applicable.
- 11.8. You may not assign this Agreement without the prior written consent of Elders which will not be withheld unreasonably.
- 11.9. Where You are acting as the trustee of any trust, You agree You are liable under this Agreement in Your personal capacity and as trustee of that trust and You warrant that You are (subject to any limits imposed by law) entitled to be indemnified out of the assets of the Trust in respect of any obligation or liability You have to Elders under this Agreement.
- 11.10. Other than for any dispute between Elders and You which is subject to a dispute resolution processes set out in the Sale Conditions, any dispute under or in connection with this Agreement will be resolved by the process specified in this clause 11.10. A party claiming that a dispute has arisen will give written notice to the other party specifying the nature of the dispute. The parties will endeavour to resolve the dispute in good faith within 15 Business Days of the date of such notice being sent. If the parties

are unable to resolve the dispute within that 15 Business Day period, then either party may refer the dispute to expert determination by issuing to the other party a notice to refer that dispute to expert determination. The parties may jointly appoint an expert and agree on the expert's remuneration. If the parties are unable to agree upon the appointment of an expert within 10 Business Days of the date of the notice to refer the dispute to expert determination, an expert will be appointed under the Resolution Institutes' then current Expert Determination Rules. Subject to this clause, any expert determination will be conducted under the Resolution Institutes' then current Expert Determination Rules with the location of the expert determination being in the capital city in the State or Territory in which Elders stores the Wool.