

[DATE]

[Grower name]

and



**Members Agreement**

The Agreement is made the [ ]

## **BETWEEN**

(1) [ ] [Company Number xxxxxxxxxx] of [ ]  
(the "**Grower**"); and

(2) **WOLDGRAIN STORAGE LIMITED** (Company No. IP22590R) whose registered office is at Forrester Boyd Wainfleet House 139 Eastgate Louth Lincolnshire LN11 9QQ (the "**Society**").

### **1. Recitals**

1.1 The Society is a co-operative association of agricultural producers which stores and processes grain on behalf of those producers.

1.2 The Grower is a shareholder in the Society and being an agricultural producer has agreed with the Society that the Society shall store and process the Contracted Quantity as referred to below in accordance with the terms of this Agreement.

1.3 In consideration of the mutual promises of the parties contained in this Agreement, the parties have agreed the following.

### **2. Interpretation**

2.1 The definitions and rules of interpretation in this clause 2 apply in this Agreement:-

**"Accrued Entitlement"** has the meaning given to such term in clause 15.2;

**"ADR notice"** has the meaning given to such term in clause 20.2;

**"Annual Store Charge"** has the meaning given to such term in clause 5.2;

**"Application Form"** means the application form under which the Grower has agreed to supply to the Society for storing and processing, the Contracted Quantity per annum;

**“Assignment Notice”** has the meaning given to such term in clause 13.3;

**“Auditor”** means the auditors of the Society as appointed by the Board from time to time;

**“Board”** means the board of directors of the Society from time to time;

**“Business Year”** means a period of 12 months, commencing on 16th July in one calendar year and ending on the 15th July in the immediately following calendar year;

**“Contracted Quantity”** means [                      ] tonnes of Grain which the Grower has agreed to supply to the Society for storing and processing in accordance with the terms of this Agreement;

**“Drying Charge”** has the meaning given to such term in clause 4.5;

**“Grain”** means wheat, barley, oats, oilseed rape and/or pulses grown by the Grower;

**“Growers Commitment”** has the meaning given to such term in clause 5.1;

**“Illustration”** means the financial illustration given to the Grower by the Society prior to this Agreement being signed demonstrating the inter-relationship between the payment of the Instalments of the Purchase Price and the and the repayment of the Qualifying Loan;

**“Instalments”** has the meaning given to such term in clause 9.1;

**“Objection Notice”** has the meaning given to such term in clause 13.3;

**“Other Growers”** means each of the other shareholders in the Society which has a contract with the Society on terms which are materially the same as those of this Agreement except that the definitions of “grain”, the “contracted quantity”, and the amounts or rates of any payments calculated on the basis of the contracted quantity may be different and the term “Other Grower” shall be construed as meaning any one of such Other Growers;

**"Post Termination Assignment Notice"** has the meaning given to such term in clause 15.3;

**"Qualification Loan"** has the meaning given to such term in clause 10.1;

**"Reconciliation Statement"** has the meaning given to such term in clause 5.3;

**"Redemption Notice"** has the meaning given to such term in clause 15.4;

**"Rules"** means the rules of the Society as registered with the FSA from time to time, a copy of which are available from the Society on request;

**"Satisfactory Quality"** has the meaning given to such term in sections 14(2A) and 14(2B) of Sale of Goods Act 1979.

**"Service Charge"** has the meaning given to such term in clause 9.1;

**"Services"** means the testing, weighing, screening, (if required) transport, storage, insurance and drying, (if required for which the Society shall charge an additional sum in accordance with clause 4.6) of the Grain to be undertaken by the Society for the Grower in accordance with this Agreement;

**"Shareholder"** means a shareholder in the Society from time to time (being the Grower and the Other Growers);

**"Specification"** has the meaning given to such term in clause 4.5; and

**"Tonne"** means a metric tonne.

- 2.2 A **person** includes a natural person, any body corporate or any unincorporated body (whether or not having separate legal personality).
- 2.3 Unless the context requires otherwise, words in the singular shall include the plural and vice versa.

- 2.4 Unless the context requires otherwise, a reference to one gender shall include a reference to the other genders.
- 2.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.6 Any obligation in this agreement not to do something includes an obligation not to agree or allow that thing to be done.
- 2.7 References to clauses are to the clauses of this agreement.
- 2.8 Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the description, definition, phrase or term that comes before the relevant term.

### **3. Commencement and entire agreement**

- 3.1 This Agreement shall commence on the date of this Agreement.
- 3.2 This Agreement, the Application Form and the Rules constitute the whole agreement between the parties and supersede all previous agreements between the parties relating to its subject matter. In the event of any discrepancy between the terms of this Agreement and of the Application Form and/or the Rules, the terms of this Agreement shall prevail.

### **4. Commitment**

- 4.1 Subject to the provisions of clause 4.2, in each Business Year during the currency of this Agreement the Grower shall supply not less than the Contracted Quantity and subject to clauses 4.3.1 to 4.3.4 (inclusive), the Society shall provide the Services in respect of the Grain supplied in accordance with this Agreement.
- 4.2 The Society shall not be obliged in any Business Year to store or provide the Services in respect of any variety of Grain supplied by the Grower if, in the reasonable opinion of the Board, the Grain is of a variety of which there will be an insufficient quantity supplied by

the Other Growers to make it economically viable for the Society to provide the Services in respect of such variety of Grain.

4.3 The Society shall not be obliged to provide the Services in respect of:-

4.3.1 any Grain (excluding oilseed) with a moisture content in excess of 21.5%;

4.3.2 any oilseed with a moisture content in excess of 17%;

4.3.3 any Grain which is not of Satisfactory Quality; or

4.3.4 any Grain or which fails to conform to such other criteria of quality as the Board may reasonably require from time to time ("**Specification**"),

unless the Board in its sole discretion agrees to do so.

4.4 Pulses are taken by prior arrangement only and acceptance is at the sole discretion of the Board.

4.5 Upon delivery of the Grain to the Society, the Society shall determine whether any of such Grain requires drying prior to storage. The Society shall be entitled to charge at its applicable rate which it shall from time to time publish for any drying undertaken (the "**Drying Charge**").

4.6 On any question as to the quality or condition of the Grain or as to compliance with the Specification, the Board's decision shall be final. Any Grain rejected by the Society shall be returned to the Grower at the Growers cost.

## **5. Annual Storage Notification**

5.1 On or before 1 April in each Business Year the Grower shall notify the Society of the breakdown of the different varieties of Grain making up the Grain to be supplied by it in accordance with this Agreement in the immediately following Business Year (the "**Growers Commitment**").

- 5.2 On or before 31 May in each Business Year the Board shall notify the Grower of the Grower's annual charge for the Services to be provided by the Society in respect of the Contracted Quantity to be supplied by the Grower in accordance with the terms of this Agreement which will apply for the immediately following Business Year ("**Annual Store Charge**"). The Annual Store Charge shall contain details of the amount of the annual charges for the Services, when and in such amounts as it shall be due and such other matters as the Board may from time to time deem relevant to the Annual Store Charge.
- 5.3 On or before 31 December in each Business Year the Society shall supply the Grower with a reconciliation statement (the "**Reconciliation Statement**"). The Reconciliation Statement shall contain details of any sums due and owing by the Society to the Grower or vice versa attributable to any differences in amounts and/or weights of Grain supplied to or by the Society.
- 5.4 Payment of the charges referred to in clauses 4.5 and 5.2 and rebates referred to in clause 5.3 (if applicable) shall be made in accordance with the terms of clause 6 below.

## **6. Payment**

- 6.1 The Society shall be entitled to raise an invoice in respect of the Drying Charge at any time after the drying has been undertaken. The Grower shall pay such invoice in full within 28 days of receipt of such invoice.
- 6.2 The Annual Storage Charge shall be payable in such proportions and at such times as shall be notified to the Grower in accordance with clause 5.2.
- 6.3 Any sums due by either party to the other pursuant to the Reconciliation Statement shall be payable by the relevant party within 28 days of receipt by the Grower of the Reconciliation Statement.
- 6.4.1 Any sums payable by the Grower under the terms of this Agreement shall be paid in full without deduction set off or counterclaim.
- 6.4.2 The Society shall be entitled to deduct from any sums due under the terms of this Agreement any sums due by the Grower to the Society, whether under the terms of this Agreement or otherwise.

- 6.5 The Society (and the Grower pursuant to clause 6.3 if applicable) shall be entitled to charge interest on any late payment at the rate of 4% per annum above the base lending rate from time to time of National Westminster Bank plc from the relevant due date until payment in full.
- 6.6 Unless the Society agrees otherwise, if the Grower in any Business Year supplies to the Society a quantity of Grain which is less than the Contracted Quantity the Grower shall remain liable to pay the Annual Store Charge by reference to the Contracted Quantity.
- 6.7 The obligation to pay the Annual Store Charge by reference to the Contracted Quantity in accordance with clause 6.6 shall be without prejudice to the obligation of the Society to take such steps as shall be reasonable, at the cost and expense of the Grower, to make up any such shortfall by sourcing grain from Other Growers in which case the liability of the Grower under clause 6.6 shall be reduced by reference to any additional income received by the Society from Other Growers for any such additional grain sourced, less the Society's costs in sourcing such grain.
- 6.8 In deciding the rates of charges in accordance with clauses 4.5 and, 5.2 and 5.3 the Board shall not discriminate unjustifiably between the Grower and any Other Growers and shall take into account any advice from the Auditor and, subject to the provisions of 6.9, shall make full provisions for:-
- 6.8.1 the whole cost to the Society of maintaining and providing the Services; and
- 6.8.2 the accumulation of a reasonable sum as a reserve including (but without prejudice to the generality of the foregoing) provision for new or replacement plant premises and equipment of a capital nature.
- 6.9 If at the end of any Business Year, the Board, having taken into account any advice given by the Auditor decides that it has reserves in excess of its anticipated requirements for the current and next following Business Year, the Board shall be entitled to implement such measures as it may in good faith determine as being the most effective means of redistributing any such surplus to both those Shareholders and former Shareholder who have contributed to the relevant surplus in the proportions in which such contributions towards such surplus were made.



## **7. Title and Risk**

- 7.1 The Grower shall retain title to such amount of Grain as has been supplied by it to the Society.
- 7.2 Notwithstanding any mixing or blending of Grain which may take place between the Grain supplied by the Grower and grain supplied by Other Growers, the Grower and the Other Growers shall retain title to the mixed and blended Grain, subject to clause 12, in the proportions in which they originally supplied the Grain which has been mixed and/or blended. Save as provided for in clause 17 the Society shall acquire no right, title or interest in such mixed or blended Grain.
- 7.3 The risk of loss or damage to the Grain shall pass to the Society upon delivery to the Society and remain with it for such time as the Grain is in the possession of the Society including whilst in transit or being handled by vehicles or equipment belonging to or hired by the Society or its contractors agents or employees.
- 7.4 The Society shall insure against its potential liability under clause 7.3 to an appropriate level and with a reputable insurance provider. Details of any insurance policy shall be made available to the Grower on reasonable request.
- 7.5 The Society shall have no liability for any indirect or consequential loss including, but not limited to loss of business, opportunity, revenue, profits, contract, reputation or goodwill.
- 7.6 Subject to clause 7.5, the maximum liability of the Society to the Grower (or any Other Grower) in any Business Year for one or more of a series of claims shall not exceed the amount recoverable by the Society under the relevant insurance policy.
- 7.7 Neither party excludes or limits liability to the other party for:
- 7.7.1 fraud or fraudulent misrepresentation;
  - 7.7.2 death or personal injury caused by negligence;

7.7.3 a breach of any terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

7.7.4 any matter for which it would be unlawful for the parties to exclude liability.

## **8. Shareholding**

8.1 If he/it has not already done so the Grower shall subscribe forthwith for one share in the Society and subject to clause 8.2, shall retain such share for so long as he is party to this agreement.

8.2 Save where the Grower has assigned his rights under this Agreement in accordance with clause 13, the Grower shall 28 days after the conclusion of the next annual general meeting of the Society after which he has ceased to be a party to this Agreement transfer the share or shares held by him or on his behalf in the Society to such person or persons as the Board shall determine for the sum of £1.

8.3 The Grower hereby authorises an officer of the Society to execute such documents in its name and on its behalf as may be reasonably required to effect to clause 8.2.

## **9. Capital Contribution**

9.1 To fund the additional capital expenditure to be incurred by the Society in providing the additional storage space required by it to store the Contracted Quantity, the Grower shall pay to the Society the price per tonne of Grain making up the Contracted Quantity as is set out in the Illustration (the "**Purchase Price**") which shall be payable by ten instalments in such amounts payable and at such times as is set out in the Illustration (the "**Instalments**").

9.2 In the event that the Grower fails to pay any Instalment within three months of its due date the full amount of the outstanding Purchase Price shall become immediately due and payable. In the event that the Grower fails to pay the full amount of the outstanding Purchase Price within 14 days of written demand from the Society demanding such payment the Society may by written notice to the Grower terminate this Agreement.

## **10. Qualification Loan**

- 10.1 On the signing of this Agreement the Grower shall provide an unsecured and interest free loan of such amount per tonne of Grain making up the Contracted Quantity as is set out in the Illustration (the “**Qualification Loan**”) to assist the Society in funding the additional capital expenditure on buildings equipment and land to be incurred by the Society in providing the additional storage capacity required to store the Contracted Quantity.
- 10.2 Subject to the provisions of clause 15, the Society shall repay the Qualification Loan in three equal instalments by setting off one third of the Qualification Loan due by the Society to the Grower against each of the final three Instalments of the Purchase Price due by the Grower to the Society.

## **11. Additional Funding**

The Society may not require any Grower to make any additional funding available to the Society, whether by way of loan or capital unless a resolution requesting such additional funding has been approved by a majority of not less than 75% of the Shareholders present at a duly constituted general meeting of the Society in which case the Grower shall make such additional funding available to the Society in accordance with such resolution.

## **12 Operating Rules**

The Board may from time to time make regulations governing the operation of the services which the Grower shall observe and in particular but without prejudice to the generality of this clause 12 the Board may make regulations governing:-

- 12.1 the arrangements for the collection of grain from the Shareholders and/or the delivery of grain to the Society’s store(s);
- 12.2 the access of Shareholders to the Society’s store(s) for the purpose of inspecting grain there and seeing the operation of the plant;
- 12.3 the calculation of the weight of grain stored for the Shareholders;
- 12.4 the sampling and designation of grain; and

12.5 the entitlements of the Shareholders to their respective proportions of grain in the store,

and the Board shall notify the Grower of all regulations made under this clause 12.

### **13. Assignment, Death, Loss of Farm**

13.1 The Board shall be entitled in its entire discretion to subcontract any or all of the Society's obligations under this Agreement.

13.2 Where three or more Instalments remain outstanding the Grower shall not assign all or any part of its outstanding rights and obligations under this Agreement (including but not limited to the Accrued Entitlement) without the prior written consent of the Society, such consent not to be unreasonably withheld or delayed and to be on such terms and conditions, including those set out in clause 13.3 below, as the Society may determine.

13.3 Where fewer than three Instalments remain outstanding, including where the Service Charge has been discharged in full, the Grower shall be entitled to give written notice to the Society of its wish to assign its rights and obligations (in whole but not in part) under this Agreement (including but not limited to the Accrued Entitlement) (the "**Assignment Notice**"), such Assignment Notice to contain details of the proposed assignee and the proposed terms of any such assignment. Unless the Society shall within 28 days of receipt of such Assignment Notice object to such assignment by way of written notice in accordance with clause 13.4 ("**Objection Notice**"), the Grower shall be entitled at any time within a period of three months of the expiry of the 28 day period during which the Society shall be entitled to serve an Objection Notice, to assign its rights and obligations under this Agreement (in whole but not in part) to the assignee identified in the Assignment Notice in accordance with the terms set out in the Assignment Notice PROVIDED THAT with effect from such assignment, the relevant Grower transfer any shares held by him in the Society to the assignee and the assignee enters into a deed of adherence with the Society under which the assignee agrees with the Society to be bound by the terms of this Agreement in respect of the outstanding and future rights and obligations arising under this Agreement as if it were an original signatory to it.

13.4 The Society shall not unreasonably serve an Objection Notice. In the event that an Objection Notice is served the Grower shall not be entitled to assign its rights and obligations under this Agreement.

13.5 The provisions of clauses 13.2 and 13.3 shall apply whether the proposed assignment is by the Grower or, in the event of his death his estate.

13.6 In the event of the death of the Grower where the Grower is an individual, his estate shall be deemed to have affirmed and assumed responsibility for his outstanding obligations and liabilities arising under Agreement including the Annual Store Charge until such time as either:-

13.6.1 the outstanding rights and obligations arising under this Agreement are assigned to an assignee in accordance with clause 13.3 above (in which case such outstanding rights and obligations shall pass to the assignee); or

13.6.1 this Agreement is terminated by either party in accordance with clause 14.1.

#### **14. Termination**

14.1 Subject to the other provisions for termination contained herein, this Agreement shall continue in operation from the date hereof for a period of ten years and thereafter may be terminated by either party giving to the other party not less than twelve months notice in writing to that effect to expire on the 1 June following the expiry of the first ten year period or on any subsequent 1 June thereafter.

14.2 The Board may terminate this Agreement by written notice at any time after the occurrence of any of the following events (without prejudice to any other remedy that may be available or the antecedent rights of the parties) with respect to the Grower, namely:-

14.2.1 An execution or distress is levied against any property of the Grower and is not discharged or paid off within twenty-one days thereafter; or

14.2.2 An incumbrancer takes possession or a receiver is appointed of the whole or any part of the property or undertaking of the Grower; or

- 14.2.3 The Grower makes any composition or scheme of arrangement with his creditors including individual voluntary arrangements or any similar scheme; or
- 14.2.4 The Grower, being a sole trader, is adjudicated bankrupt; or
- 14.2.5 Where the Grower is a partnership, any partner in the Grower is adjudicated bankrupt; or
- 14.2.6 Where the Grower is a body corporate, any of the following events occurs:-
- 14.2.6.1 the Grower suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
  - 14.2.6.2 the Grower commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party; or
  - 14.2.6.3 an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the Grower; or
  - 14.2.6.4 a floating charge holder over the assets of the Grower has become entitled to appoint, or has appointed, an administrative receiver or administrator; or
  - 14.2.6.5 a person becomes entitled to appoint a receiver over the assets of the Grower, or a receiver is appointed over the assets of the Grower; or
  - 14.2.6.6 a creditor or encumbrancer of the Grower attaches or takes possession of, or a distress, execution, sequestration or other such

process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or

14.2.6.7 the Grower passes a resolution to wind itself up or is otherwise wound up by order of the Court; or

14.2.6.8 the Grower convenes a meeting of its creditors or enters into a corporate voluntary arrangement; or

14.2.6.9 any event occurs, or proceeding is taken, with respect to the Grower in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 14.6.1 to 14.6.8 (inclusive); or

14.2.7 The Grower commits a breach of this Agreement which is incapable of remedy or being a persistent breach gives rise to at least three notices to the Grower under clause 14.2.8; or

14.2.8 The Grower commits a breach of this Agreement capable of remedy and the Grower fails to remedy such breach within thirty days of receiving from the Board a notice specifying the breach and the steps required to remedy; or

14.2.9 The Grower ceases to trade; or

14.2.10 The Grower is in breach of clause 8; or

14.2.11 The Grower fails to discharge the balance of the Purchase Price due in accordance with clause 9.2.

## **15. Consequences of termination**

15.1 On the termination of this Agreement by either party for any reason, all sums payable by the Grower to the Society under the provisions of this Agreement, including any outstanding Instalments, shall become immediately payable whether due for payment or not.

15.2 With effect from the termination of this Agreement by the Society in accordance with clause 14.1, but not otherwise, subject to clause 15.1, the Grower shall cease to have any liability to pay the Annual Store Charge and the Society shall repay to the Grower within two years of such termination an amount equal to the Purchase Price paid by the relevant Grower as at the date of termination and outstanding Qualification Loan ("**Accrued Entitlement**"), subject to the right of set-off which the Society has or may have in respect of any sums due from the Grower to the Society.

15.3.1 In the event of the termination of this Agreement by either the Grower or the Society, other than in accordance with clause 14.1, the Grower shall have the right at any time following such termination by notice in writing to the Society (**"Post Termination Assignment Notice"**) to assign its right to its Accrued Entitlement to a third party, PROVIDED THAT any such assignment shall be in accordance with and subject to the terms of this Agreement.

15.3.2 With effect from any assignment of a Growers Accrued Entitlement in accordance with clause 15.3.1 the assignee shall:-

15.3.2.1 enter into a new members agreement with the Society in the form of the Society's then current version; and

15.3.2.2 subscribe for a share in the Society.

15.3.3 Pending any assignment in accordance with clause 15.3.1, the Grower shall remain liable for the Annual Store Charge which would have been charged to the Grower in respect of the Contracted Quantity as if the Agreement had not terminated.

15.3.4 Save for the Growers ongoing liability for the Annual Store Charge in accordance with clause 15.3.3, the Grower's interest in its Accrued Entitlement, any rights and obligations in respect of any share held in the Society in accordance with clause 8 and any accrued outstanding rights and/or obligations of either party to the other, (which shall survive the termination of this Agreement) neither the Grower nor the Society shall have any ongoing rights or obligations to the other under the terms of this Agreement.



15.4 Following the termination of this Agreement, the Society and Grower may,(but without any obligation) agree that the Society shall acquire the Grower's Accrued Entitlement subject to the following terms:-

15.4.1 pending any such agreement being reached, the Society shall have no right to require the Grower to sell and the Grower shall have no right to require the Society to buy the Grower's Accrued Entitlement;

15.4.2 to preserve the value of the Accrued Entitlement of the Other Growers the purchase price payable by the Society for the Growers Accrued Entitlement shall be not less than the Accrued Entitlement after deducting:-

15.4.2.1 a sum equal to the accrued taxable benefits received by the relevant Grower in respect of the Instalments prior to completion of the sale and purchase of the relevant Grower's Accrued Entitlement;

15.4.2.2 any outstanding obligations or liabilities of the relevant Grower to the Society, whether in respect of the Annual Store Charge (whether arising pre or post termination) or otherwise; and

15.4.2.3 an amount equal to the reasonable internal and external costs incurred by the Society in agreeing terms for the purchase of the Grower's Accrued Entitlement in accordance with clause 15.4.

15.5 With effect from the sale and purchase of the Grower's Accrued Entitlement in accordance with clause 15.4, the relevant Grower shall have no further liability to the Society, whether in respect of the Annual Store Charge or otherwise, save for any accrued outstanding claims which have not been taken into account under clause 15.4.

## **16. Modification of this Agreement**

16.1 At any time the Board may give written notice to the Shareholders of its intention to modify the terms of their respective members agreements with the Society (including this Agreement) and requiring each Shareholder to notify the Board in writing of his or its

acceptance or refusal of the modifications within such period as shall be stated in the notice being not less than twenty-one days. No notice may be given which is intended to have retrospective effect.

16.2 If the modifications referred to in clause 16.1 are duly accepted by not less than three-fourths of the total number of the Shareholders within such period as shall have been stated in such notice (being not less than twenty-one days), then this Agreement together with the members agreements with each of the Shareholders shall be modified in accordance with such notice given by the Board with immediate effect from such majority acceptance being reached and the Board shall notify the Shareholders of such fact.

## **17. Lien**

The Society shall have a general lien against the Grower in respect of the Grain and any other property of the Grower stored by the Society for all charges or other monies that may become due from the Grower to the Society at any time whatsoever and in the event that such lien is not satisfied within a reasonable time the Board may at its absolute discretion sell the Grain or other such property or part thereof as agent for the Grower and apply the proceeds towards satisfaction of the charges or other monies due to the Society together with the costs and expenses of retention insurance and sale PROVIDED THAT and upon accounting to the Grower for any balance that might remain the Society shall be discharged from any liability whatsoever in respect of any such Grain and other property.

## **18. Indemnity**

The Grower shall indemnify the Society against all losses (including indirect and consequential loss) suffered by the Society including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses and loss of or damage to the Society's storage facilities or to any Grain or other goods stored by the Society, as a consequence of any breach by the Grower of this Agreement or any regulations made pursuant to clause 12, or as a consequence of the Grower's fraud, deceit or deliberate concealment.

## **19. Rights of third parties**

Save only as provided for in clause 13.3 (which shall be enforceable by and against a Growers estate) and 15.4.2 (which shall be enforceable by one or more of the Other Growers) a person who is not a party to this Agreement shall not have any rights under or in connection with it.

## **20. Dispute Resolution**

20.1 If any dispute arises in connection with this Agreement, an appointed representative of each party shall, within 7 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

20.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must give notice in writing to the other party requesting a mediation (“ADR notice”). A copy of the request shall be sent to CEDR Solve. The mediation shall start not later than 28 days after the date of the ADR notice.

20.3 The commencement of a mediation shall not prevent the parties commencing or continuing court proceedings.

## **21. Governing law and jurisdiction**

21.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

21.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Signed for and on behalf  
of the Grower : .....

Signed for and on behalf  
of the Society : .....