

Member Update

Title: Grain Trade Australia Voyage Charter 2012 - AusGrain 2012

Update No.: 21 of 12

Date of Issue: 18 September 2012

Distribution

- GTA Members – primary contact list. Please circulate to all appropriate internal parties

1. Issue

GTA is calling for the first round of industry consultation regarding the new attached **Grain Trade Australia Voyage Charter 2012**. Submissions should be sent to admin@graintrade.org.au by the COB Wednesday 31 October 2012.

2. Background

Prior to deregulation of the Australian wheat export market, AWB was the custodian of the Australian Wheat Charter (Austwheat), as endorsed by the Baltic and International Maritime Council (BIMCO), the most recent edition being Austwheat 1990 (amended 1991).

The Austwheat Charter has become one of the most commonly used charter forms in the Australian export grain trade.

Although in recent times, industry has reported that it is becoming less common to find an unamended version of an Austwheat Charterparty and it was becoming somewhat out of date.

Therefore GTA was asked to consider becoming the new custodian of the Austwheat charterparty and consider the need to update the charterparty in line with the current market environment.

GTA coordinated the appointment of an Australian Grain Industry Charterparty Development Committee consisting of industry representatives with significant experience in export contracts and documentation. Geoff Farnsworth a principle lawyer at Macpherson and Kelly Lawyers and specialising in Marine Contracts was appointed as the Chairman by the Committee.

3. The Committee comprised of;

Geoff Farnsworth	Chair
Rob Wilson	Viterra Ltd
Ben Geneve	Co-operative Bulk Handling Limited
Patrick Turner	GrainCorp Operations Ltd
Alister Boyd	Cargill Australia Limited
Greg Burk	Viterra Ltd
Hans Van Adrichem	GrainCorp Operations Ltd
Josh Taylor	Alfred c Toepfer International (Aust) P/L
Michael Walsh	Cargill Australia Limited

4. Process

The Committee considered that changes to the existing Charterparties were necessary and meet on several occasions to develop an appropriate draft document for initial consultation with shipowners and brokers.

The Committee now believe the document is suitably complete to circulation to the broader grain and shipping industry for a first round of industry consultation.

It is GTA's intention to constantly maintain and review the Charterparty where necessary and attempt to secure BIMCO endorsement of this Charterparty as part of the process.

1. Shipbroker	Grain Trade Australia Voyage Charter 2012 (AusGrain 2012) <div style="text-align: right;">Part I</div>	
	2. Place and Date	
3. Owners/Place of business (Cl. 1)	4. Charterers/Place of business (Cl. 1)	
5. Vessel's name (Cl. 1)	6. GT/NT (Cl. 1)	
7. DWT all told on summer load line in metric tons (abt) (Cl. 1)	8. Present position (Cl. 1)	
9. Shipment Period (Cl. 9)		
10. Loading range, port or place (Cl. 1)	11. Discharging port or place (Cl. 1)	
12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1)		
13. Shippers (Cl. 2)	14. Nomination (Cl.9) a) Length of Final Laycan: b) No. of days notice of Final Laycan prior to first day of Final Laycan: c) No. of day notice of nomination of carrying Vessel prior to first day of Shipment Period:	
15. Freight rate (also state whether freight prepaid or payable on delivery (Cl. 1)	16. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 7)	
17. Maximum Age of Vessel (Cl. 16.2(d))	18. Laytime (Cl. 19) a) Loading Rate (b) Laytime for discharging <hr/> c) Total laytime for loading and discharging	
19.		
20. Agents (loading) (Cl. 18)		
21. Agents (discharging) (Cl.18)		
22. Demurrage rate and manner payable (loading and discharging) (Cl. 21)	23. General Average to be adjusted (Cl. 35)	
	24. Brokerage commission and to whom payable (Cl. 38)	
25. Additional clauses covering special provisions, if agreed		

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

Signature (Owners)	Signature (Charterers)
--------------------	------------------------

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

1. Introduction

The Owners (in Box 3) of the Vessel (in Box 5), of the GT/NT indicated in Box 6 and with the number of tonnes of deadweight capacity all told on summer loadline stated in Box 7, now in position as stated in Box 8 and the Charterers (Box 4) agree that:

As soon as her prior commitments have been completed the said Vessel being in every way fitted for the voyage will, as directed by Charterers, proceed with all convenient speed to the loading range, ports(s) or place(s) stated in Box 10 (from the range of ports listed in clause 3) or so near thereto as she may safely get and lie always afloat, and there load a cargo of grain in bulk as stated in Box 12 (grades to be naturally separated to fit the Vessel's holds, if more than one grade) which the Charterers bind themselves to ship, and being so loaded, the Vessel shall proceed with all convenient speed to the discharging port(s) or place(s) stated in Box 11 as ordered on completion of loading, or so near thereto as she may safely get and lie always afloat, and having been paid freight at the rate specified in Box 15 there deliver the cargo.

2. Shippers

In this Charterparty **Shippers** means the party named in Box 13.

3. Loading Port Range

Fremantle, Geraldton, Albany, Esperance (in Western Australia), Port Giles, Wallaroo, Port Lincoln, Port Adelaide, Thevenard (in South Australia), Geelong, Portland, Melbourne (in Victoria), Port Kembla, Newcastle (in New South Wales), Brisbane, Gladstone, Mackay (in Queensland).

4. Shifting of Vessel

The Charterers have the option of ordering the Vessel to shift loading berths at the Owners' expense on one occasion at each loading port. All time used for shifting between first and any subsequent loading berths counts as laytime or demurrage, if on demurrage. If the Vessel is ordered to shift by any port authority all costs of and in connection with such orders must be paid by the Owners and all time used is not to count as laytime or time on demurrage, even if on demurrage.

5. Capacity and tolerance

The Owners warrant that the Vessel is able to load the Cargo with a tolerance stated in Box 12 more or less at the Owners' option.

6. Cargo Responsibility

6.1 The Charterers shall at their expense procure the delivery of Cargo from the silo at the loading port, into the Vessel's holds, loaded, stowed and spout trimmed.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- 6.2 Loading and discharging of Cargo (including covering and uncovering of hatches) will at all times be under the direction and supervision of the Master and the Owners.

7. Freight

Freight is payable at the rate in Box 15 per tonne of 1,000 kilos according to Bill of Lading weight (refer to clause 22 and Schedule No. 1) in accordance with the particulars in Box 16.

8. Deadfreight

Bill of Lading weight is to be determined by silo weight figures, which are to be final and binding for the purposes of clauses 7 and 22. No deadfreight is ever payable in respect of any voyage performed under this Charterparty provided the Charterers make available the Cargo specified in Box 12 including tolerance at the Owners' option as specified in Box 12.

9. Nomination

- 9.1 If proceeding in ballast Owners shall apply to Charterers for loading port orders 96 hours before arriving in the loading area in Box 10 and orders for loading port shall be given by Charterers within 48 hours of receipt of Owners' application.
- 9.2 Charterers to give notice as stated in Box 14 narrowing the Shipment Period in Box 9 to a Final Laycan of at least the number of days specified in Box 14 (all within the Shipment Period in Box 9). The Final Laycan will only be varied by written consent of both Owners and Charterers.
- 9.3 Where Box 5 is completed "TBN" or equivalent, Owners shall nominate a Vessel as required in Box 14 before the first day of the Shipment Period in Box 9, such notice to be given to the Shippers and the Charterers within the Charterers' normal office hours (Monday to Friday 0900hrs to 1700 hrs local time, holidays excluded). Any nomination received outside these hours will be deemed to be received at 0900 on the next working day.
- 9.4 The Charterers have the option in their sole discretion to accept or reject any nomination within 24 hours that includes the words "or substitute" or "to be nominated" or words of similar intent.
- 9.5 Charterers may in their absolute discretion accept or reject a late nomination with reservation of all rights.
- 9.6 Any rejection by the Charterers of the Owners' nomination shall not affect the Owners' obligation to comply with this Charterparty. The Owners must re-nominate promptly, such re-nominated vessel being in all respects fitted and suitable to perform the voyage, to arrive, ready in all respects to load the cargo and perform this voyage as per the terms and conditions of this charter party before the last day of the Final Laycan.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

10. Substitution

- 10.1 Without affecting Owners' obligations or Charterers' rights under this Charterparty the Owners may nominate a substitute vessel if:
- (a) the proposed substitute vessel arrives ready in all respects to load the cargo and perform this voyage as per the terms and conditions of this charter party before the last day of the Final Laycan of the original vessel and otherwise complies with the requirements and procedures contained in clause 20, subject always to the Charterers' rights set out in that clause; and
 - (b) the proposed substitute vessel has been nominated to Shippers and Charterers at least twelve (12) clear days before commencement of the lay can period; and
 - (c) the Charterers' agreement in writing has been given to such substitution, such agreement not to be unreasonably withheld.
- 10.2 The Owners warrant that any substitute vessel nominated under clause 10.1 will comply in all respects with the requirements of this Charterparty.
- 10.3 The Charterers may reject any proposed substitute vessel that does not meet the requirements of this Charterparty within one business day of receipt of its nomination by the Owners.

11. Owners' Obligations

- 11.1 Owners shall at all times:-
- (a) ascertain the applicable physical requirements for loading and discharging port(s); and
 - (b) procure that the Vessel complies at all times with such requirements.
- 11.2 If the Owners or the Master cause or permit the Vessel to be loaded so that the Vessel has on arrival at any discharging port a draft in excess of the permissible entry draft at that port the Owners must promptly notify the Charterers in writing and:-
- (a) the Charterers have the right (acting reasonably) to require the Vessel to proceed to that port, or to any other port or place, for the purpose of lightening and/or to discharge (including part discharge); and
 - (b) the Owners must promptly pay the costs of lightening and all other additional costs incurred because of the Vessel's excess draft. Time spent due to the Vessel having excess draft does not count as laytime or demurrage, even if on demurrage.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

11.3 The Owners indemnify and hold the Charterers harmless against any loss or damage resulting from a breach by the Owners of any obligation under this clause 11.

11.4 This clause does not affect and is not affected by clause 24.

12. Notices

12.1 Notices and any other communications from the Owners to the Charterers or to the Shippers must be by email or fax.

12.2 At loading, any NOR must also be sent to the Shippers' agent at the relevant loading port by email or fax.

12.3 At discharging, any NOR must be sent to the Receivers (or their nominated agents) at the relevant discharging port by email or fax.

13. Notices by Master

13.1 Loading Port(s)

The Master must notify the Shippers and the Charterers as follows:

- (a) Of the Vessel's estimated time of arrival at the first loading port (**ETA**) once in every twenty four (24) hours from the time of nomination.
- (b) Within twenty four (24) hours after acceptance of the Vessel, giving the Vessel's ETA, current position, intended route to the loading area and providing his arrival draft and stowage plan to include quantity of Cargo to be loaded on deepest departure draft and any cargo permitted in accordance with clause 40 to be loaded for other shippers.
- (c) Forty eight (48) hours and twenty four (24) hours prior to the Vessel's ETA confirming any change to expected fore and aft drafts on arrival.

13.2 Discharging Port(s)

The Master must notify the Charterers and the Receivers (or their nominated agents) as follows:

- (a) Upon departure from the loading port, confirming the sailing date, quantity loaded, estimated time of arrival at discharging port(s) and fore and aft drafts.
- (b) Once in every twenty four (24) hours thereafter updating the estimated time of arrival at discharging port(s).

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- (c) Forty eight (48) and twenty four (24) hours prior to arrival at each discharging port of any change to fore and aft drafts expected on arrival.

14. Orders for Loading Port

- 14.1 Unless the Charterers have already given orders for a second and/or subsequent loading port (if any), such orders must be given by the Charterers within 24 hours after the commencement of loading at the first loading port.
- 14.2 The Master must inform the Charterers in writing by e-mail or fax if the Vessel is delayed for 48 or more hours after the Charterers' orders for loading port have been given.

15. Survey at Loading Port

- 15.1 Before loading is commenced, and at each loading port, the Vessel must pass the customary survey of:-
 - (a) Any relevant Australian government quarantine and inspection agency authorised officer/surveyor; and
 - (b) an independent Marine Surveyor appointed by the Charterers and acceptable to the Owners (acting reasonably)provided that such survey(s) shall not be required at any second or subsequent loading port unless government agency so directs.
- 15.2 The cost of surveys (excluding costs of transporting an inspector and/or surveyor to and/or from the Vessel at anchorage) under clause 15.1 are for the Owners' account. Time spent for all surveys under clause 15.1 is not to count as laytime or demurrage if on demurrage. An officer/surveyor appointed under clause 15.1 is to attend on board at anchorage within 24-hours after the Vessel's arrival weather permitting or otherwise as soon as is practical after weather permits or if attendance at anchorage is otherwise not possible then as soon as possible after berthing of the Vessel.

16. Vessel Requirements

- 16.1 Vessel will present for loading free from loose rust, scale,, infestation and/or contamination by previous cargoes and suitable in every respect for the loading, carriage and discharge of the permissible cargoes under this charter party..
- 16.2 The Owners warrant that the Vessel is, when nominated, and will remain at all times throughout the performance of this Charterparty:-
 - (a) seaworthy, tight, staunch and strong and in every way fitted for the voyage and to safely enter, berth, lay alongside, load and

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

discharge and depart always safely afloat from the loading and discharging ports;

- (b) entered with a Protection & Indemnity Association a member of the International Group for full coverage (including pollution liability to the extent required in clause 37) and the Vessel's hull and machinery are fully insured;
- (c) complies with the requirements of the Protection of the Sea (Civil Liability) Act 1981 (Australia), the Protection of the Seas (Civil Liability for Bunker Oil Pollution Damage) 2008 (Australia) and the Navigation Act, Marine Orders and the Maritime Labour Convention 2006;
- (d) not more than the number of years in Box 17 old, single deck, with engine/accommodation aft, non-twin hatch, each hatch being without longitudinal centre line bulkheads;
- (e) classed highest Lloyds or equivalent in accordance with the Institute Classification Clause of the Institute of London Underwriters dated 1/1/2001 or any subsequent version of that clause;
- (f) acceptable to all relevant authorities and conforming with all laws, regulations and requirements in force at or applicable from time to time at the loading and discharging ports;
- (g) well maintained in all accommodation, equipment, fixtures and fittings;
- (h) of such draft, air draft and other dimensions as represented by the Owners to the Charterers;
- (i) capable of loading cargo in all holds or alternate holds as required;
- (j) fully compliant with the Codes of the International Maritime Organisation in force from time to time including without limitation ISTCW (International Convention on Standards of Training, Certification and Watchkeeping), ISM (International Safety Management) and ISPS (in accordance with clause 42); and
- (k) compliant with any other requirements specified by the Charterers on fixing the Vessel.

- 16.3 At the time of nomination the Owners to provide Charterers with a completed Vessel Questionnaire (if requested by Charterers) signed by the Master, the accuracy of which the Owners warrant.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- 16.4 If the Vessel is found not to comply with any of the warranties contained in clause 16.2 or 16.3 the Charterers may at their sole discretion reject or conditionally accept the Vessel.

An acceptance under this clause 16.4:-

- (a) must be in writing;
- (b) does not in any event relieve the Owners or Charterers of any obligation under this Charterparty.

A rejection under clause 16.4 must be in writing and any such rejection is always without prejudice to the Charterers' rights.

- 16.5 No act, conduct, statement or omission of the Charterers prejudices any right or remedy available to the Charterers under clause 16.

17. **Stevedores**

- 17.1 The Charterers must appoint and pay the stevedores at the loading port(s). The Receivers must appoint and pay the stevedores at the discharging port(s).

- 17.2 Stevedore damage if any, whether at any loading or discharging port(s), must be settled directly between the Owners and stevedores, but the Charterers will provide all reasonable assistance to the Owners in relation to any such claim.

18. **Agents**

- 18.1 At the loading port(s) the agents for the Vessel will be appointed by the party in Box 20.

- 18.2 At the discharging port(s) the agents for the Vessel will be appointed by the party in Box 21.

19. **Loading**

- 19.1 The Cargo is to be loaded within the laytime allowed below, or at the rate specified in Box 18, based on the quantity specified in Box 12, provided that the Vessel can receive at the appropriate pro rata rate. In this clause a reference to a "mean Cargo quantity" is a reference to the quantity specified in Box 12 without regard to tolerance.

- (a) For a mean Cargo quantity up to 10,000 tonnes the time allowed for loading is three (3) days;
- (b) For a mean Cargo quantity above 10,000 tonnes up to 25,000 tonnes the time allowed for loading is four (4) days;

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- (c) For a mean Cargo quantity above 25,000 tonnes up to 60,000 tonnes the time allowed for loading is five (5) days; and
 - (d) For a mean Cargo quantity above 60,000 tonnes, the time allowed for loading is six (6) days.
- 19.2 Laytime is to be calculated in weather working days of 24 consecutive hours Saturdays, Sundays and holidays excluded even if used.
- 19.3 When the Vessel is ready in all respects to load at any berth ordered by the Charterers, the Master must give Shippers and Charterers written notice of readiness (**NOR**). Valid NOR must be received by the Shippers and Charterers from Monday to Friday, except holidays at the loading port, between 0900 hours and 1700 hours local time.
- 19.4 At the first loading port the laytime starts to count 24 hours after the Charterers have received valid NOR.
- 19.5 NOR is only to be given at the first loading port or place except when any survey under clause 15.1 has been directed at a second or subsequent loading port, in which case NOR must also be given at that second or subsequent loading port and clause 19.3 applies.
- 19.6 This is a berth-charter. If the loading berth is occupied when the Vessel arrives at or off the first or only loading port (or so near as the Vessel is permitted to approach), the Master will be entitled to give NOR upon arrival at the port. Laytime will count as if the Vessel was in berth. Time spent moving from the waiting place to the loading berth is not to count as laytime or demurrage, even if on demurrage.
- 19.7 A NOR is invalid and time does not start to count if the Vessel was not, at the time NOR is given, in fact ready in all respects. To avoid doubt, the Vessel will not be ready if the result of any survey or inspection under clause 15.1 is that the Vessel is not ready and available for immediate loading.
- 19.8 If an invalid NOR is given, a fresh valid NOR must be given by the Master when the Vessel is in fact ready in all respects and laytime only begins to count upon receipt of such fresh valid NOR. To avoid doubt, any time incurred by the Vessel prior to receipt of a fresh valid NOR (including time at anchorage) will not count as laytime or time on demurrage.
- 19.9 At the second or subsequent loading port (if any) the time for loading is to count:-
 - (a) if NOR is, pursuant to clause 19.5, required at that port, from receipt of a valid NOR; or in all other cases
 - (b) from 1200 hours on the day of arrival at the port (or so near as the Vessel is permitted to approach) if the Vessel arrives before

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

1200 hours, and from 0900 hours on the following day if the Vessel arrives at or after 1200 hours

unless loading is commenced earlier, in which case the time is to count from the commencement of loading.

- 19.10 In the case of a second or subsequent loading port (if any), time changing ports is not to count as laytime or demurrage, even if on demurrage. In this clause 19.10 "**time changing ports**" means time from the completion of loading at a port, time sailing from that port to the next loading port, and until laytime starts to count again under clause 19.9.
- 19.11 The Shippers may send the Cargo alongside continuously (Saturdays, Sundays and holidays included) and if the Shippers so direct the Owners must procure that the Vessel loads continuously (Saturdays, Sundays and holidays included).
- 19.12 All overtime costs incurred through working outside customary port working hours must be paid by the party ordering that working, except officers' and/or crew's overtime which are always for the Owners' account.

20. Commencement of Loading and Cancelling Dates (Laycan)

- 20.1 The time for loading shall not commence before the first day of the Shipment Period in Box 9 and if the Vessel is not ready to load at all hatches at first loading berth by 2400 hours on the last day of the Final Laycan the Charterers shall have the option of cancelling this charter, which shall be declared upon NOR being given.
- 20.2 Cancellation of this Charterparty under clause 20.1 shall be entirely without prejudice to Charterers' rights. No act, conduct, statement or omission of the Charterers affects the Charterers' right of cancellation under this Charterparty.
- 20.3 The Charterers are permitted but not obliged to begin loading earlier than first the day of the Shipment Period specified in Box 9.

21. Demurrage and Despatch (Loading)

- 21.1 If the Cargo is not loaded within the time stipulated in clause 19, demurrage is payable at the rate specified in Box 22 per running day, and pro rata for any part of a day (unless expressly excluded by this Charterparty). The Owners must provide their signed statement of facts and laytime calculation within 5 business days of the completion of loading. The Charterers must pay the Owners any demurrage due under clause 21 within thirty (30) business days after:-
 - (a) receipt of the Owners' statement in accordance with clause 21.1;
 - and

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- (b) the Owners and the Charterers reaching agreement on the calculation.
- 21.2 Upon expiry of laytime payment of demurrage will be Owners' sole remedy for delay unless the circumstances of the delay lawfully permit the Owners (on notice to Charterers) to treat the Charterparty as repudiated and/or claim damages and/or detention.
- 21.3 For all laytime saved at the loading port(s) despatch is due by the Owners to the Charterers on completion of loading and must be paid within 30 business days following completion of loading at the rate of one half of the rate of demurrage specified in Box 22.
- 21.4 If despatch due under clause 21.3 is not paid within 14 business days, the Charterers may set off and deduct the unpaid amount of despatch from other amounts due to the Owners other than freight.

22. Bills of Lading

- 22.1 Without prejudice to this Charterparty, the Master shall either sign Bills of Lading for the Cargo on the "Austgrain Bill" Bill of Lading form, (in the form of Schedule No. 1 to this Charterparty) or authorise the agents (in the form of the authorisation set out in Schedule No 2 to this Charterparty) at each loading port to sign and issue and release such Bills of Lading on his behalf, always in accordance with Mates' Receipts.
- 22.2 All such Bills of Lading shall be for Cargo weights as determined by silo weight figures and must be claused expressly to the effect that freight and all terms, conditions, clauses, exclusions, limitations and exceptions including the arbitration clause of this Charterparty are incorporated into each such Bill of Lading.
- 22.3 The Master or the agents shall issue and release signed Bills of Lading to the Shippers immediately upon completion of loading and, if required by the Shippers, at each loading port.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

23. Time for Discharging

- 23.1 When the Vessel is in all respects ready for discharging the Master must give written notice (**NOR**). Valid NOR must be received by the Charterers and Receivers (or their nominated agents) on a working day and during ordinary office hours local time, whether the Vessel is in berth or not at the first (or only) discharging port and on arrival at each subsequent discharging port, or so near as the Vessel may be permitted to approach. Time for discharging is not to commence until twenty-four (24) hours after Notice of Readiness has been received, unless discharging is commenced earlier. Cargo is to be discharged free of expense to the Vessel at the average tonnage rate specified in **Box 18** per weather working day of twenty-four consecutive hours Saturdays Sundays and holidays excluded even if used.
- 23.2 If the discharging berth is congested on the Vessel's arrival at or off the first or only discharging port (or so near as the Vessel is permitted to approach), the Master will be entitled to give valid NOR on arrival there. If so, laytime counts as if the Vessel was in berth. Time spent moving from the waiting place to the discharging berth is not to count as laytime or demurrage even if on demurrage.
- 23.3 NOR is invalid if the Vessel is not in fact ready in all respects at the time NOR is tendered. If an invalid NOR is given, a fresh valid NOR must be given by the Master when the Vessel is in fact ready in all respects and laytime does not begin to count until 24 hours after a fresh valid NOR has been received. Any further NOR must comply with the procedures set out in clause 23.1.
- 23.4 The Charterers have the option (despite clause 24.1) to accept NOR under this clause 23 on a day that is not a working day and/or outside ordinary office hours local time.

24. Demurrage/Despatch (Discharging)

- 24.1 If the Vessel is not discharged at the rate stipulated in clause 24, demurrage is payable at the rate specified in Box 22 per running day and pro rata for any part of a day. The Owners must provide their signed statement of facts and laytime calculation within 5 business days of the completion of discharge.
- 24.2 Subject to the laytime allowed in this Charterparty, to the relevant laytime exceptions in this Charterparty (including the express circumstances in which demurrage is not to accrue) and to the Charterers' rights under this Charterparty or at law, after acceptance of the Owners' NOR, the demurrage rate will apply to any time spent waiting at the discharging port(s) unless:-
- (a) the circumstances of the delay lawfully permit the Owners to treat the Charterers as having repudiated this Charterparty and the

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

Owners have validly served written notice on the Charterers to that effect.

Otherwise the payment of demurrage is the Owners' sole remedy for such delay.

- 24.3 For all laytime saved at discharging port(s), despatch is due and must be paid by the Owners at the rate of one-half of the rate of demurrage in Box 22.
- 24.4 Any despatch at discharging port(s) must be calculated on the basis of a weather working day of 24 consecutive hours but any time lost on a working day due to weather conditions is not to count unless work is actually stopped or prevented.
- 24.5 Any demurrage or despatch at discharging port(s) must be paid within thirty (30) business days of the completion of discharge. If any despatch due is not paid in full, the Charterers have the right to deduct the unpaid amount of despatch from the freight due to the Owners.
- 24.6 Laytime at loading and discharging ports is non-reversible.

25. **Lighterage at Discharging Port**

If lightening takes place at a discharging port, time occupied in moving from the point of lightening to the place of discharge is not to count as laytime or demurrage, even if on demurrage.

26. **Multiple Charters**

- 26.1 If this Charterparty is for the carriage of less than a full and complete cargo and if prior to the fixing of this Charterparty the Owners have entered into a separate contract of carriage for the use of cargo space of the Vessel that is not required by the Charterers for the performance of this Charterparty, then despite anything in this Charterparty time used in the performance of another such contract of carriage never counts as laytime or demurrage even if on demurrage.
- 26.2 Whenever this clause 26 applies, and if so requested by the Charterers, the Owners must provide separate laytime calculations in respect of Cargo and other cargo.

27. **Supervising Cargo**

The Charterers, Shippers, Receivers or their respective surveyors or agents have the right to be on board the Vessel whilst at loading port(s) and/or discharging port(s) for the purpose of inspecting the Cargo, checking the weight(s), and supervising their interests.

28. **Exceptions, etc**

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

The provisions of Section 17 of the Australian Carriage of Goods by Sea Act 1991 (**Act**) and of Articles 3 (except Article 3(8)), 4, 4A, 4 Bis, 6A, 8 and 9 of Schedule 1A to the Act are incorporated into and form part of this Charterparty as if they were set out in full. To this extent only (and no further), this Charterparty is to be deemed to be a contract for the carriage of goods by sea to which those incorporated provisions apply. No regard is to be had to Article 1 of the Schedule to the Act (except to the extent required to give effect to this clause). Nothing in clause 28 affects clauses 6, 29, 31, 32, 33, 34, 35, 36, 37 or 43.4(b) of this Charterparty.

29. **Strikes and Civil Blockades**

29.1 In this clause 29 **Industrial Action** means a strike, work ban, go-slow or lock-out of or concerning any class or group of workers who would usually be engaged in the berthing of the Vessel or in the loading or discharging of Cargo and includes any stop work meeting not included in the relevant industrial award (or other registered or certified industrial agreement covering such workers) and any picket or blockade of the port or berth or stevedoring or associated storage facility (not being a blockade arising directly as a result of war). If Cargo (or any part of it) cannot be loaded or discharged, or is unavailable for loading or discharge by reason of Industrial Action any time lost due to that Industrial Action does not count as laytime or demurrage even if on demurrage.

29.2 Further, the Owners may not make any claim for damages for delay by reason of Industrial Action under this Charterparty or at law.

30. **Liberties**

The Vessel has liberty to assist vessels in distress as part of the contract voyage.

31. **War Risks Clauses (VOYWAR 2004)**

31.1 For the purpose of this Clause, the words:

(a) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel;

(b) "War Risks" shall include any actual, threatened or reported:

War; act of war; civil war; hostilities; revolution; rebellion; civil commotion; warlike operations; laying of mines; acts of piracy; acts of terrorists; acts of hostility or malicious damage; blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever); by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.

- 31.2 If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Contract of Carriage, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.
- 31.3 The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.
- 31.4 If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.

31.5

- (a) The Owners may effect war risks insurance in respect of the Hull and Machinery of the Vessel and their other interests (including, but not limited to, loss of earnings and detention, the crew and their Protection and Indemnity Risks), and the premiums and/or calls therefore shall be for their account.
- (b) If the Underwriters of such insurance should require payment of premiums and/or calls because, pursuant to the Charterers' orders, or in order to fulfil the Owners' obligation under this Contract of Carriage, the Vessel is within, or is due to enter and remain within, or pass through any area or areas which are specified by such Underwriters as being subject to additional premiums because of War Risks, then the actual premiums and/or calls paid shall be reimbursed by the Charterers to the Owners within 14 days after receipt of the Owners' invoice. If the Vessel discharges all of her cargo within an area subject to additional premiums as herein set forth, the Charterers shall reimburse the Owners for the actual additional premiums paid which may accrue from completion of discharge until the Vessel leaves such area or areas referred to above. The Owners shall leave the area as soon as possible after completion of discharge.

31.6 The Vessel shall have liberty:-

- (a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;
- (b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- (c) to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;
- (d) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;
- (e) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;
- (f) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.
- (g) If in compliance with any of the provisions of sub-clauses (b) to (f) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Contract of Carriage.

32. BIMCO Piracy Clause

- 32.1 If after entering into this Charter Party, in the reasonable judgement of the Master and/or the Owners, any port, place, area or zone, or any waterway or canal (hereinafter "Area") on any part of the route which is normally and customarily used on a voyage of the nature contracted for becomes dangerous, or the level of danger increases, to the Vessel, her cargo, crew or other persons on board the Vessel due to any actual, threatened or reported acts of piracy and/or violent robbery and/or capture/seizure (hereinafter "Piracy"), the Owners shall be entitled to take a reasonable alternative route to the discharging port and, if they so decide, immediately give notice to the Charterers that such route will be taken. Should the Vessel be within any such place as aforesaid which only becomes dangerous, or is likely to be or to become dangerous, after her entry into it, she shall be at liberty to leave it.
- 32.2 In any event, if the Vessel proceeds to or through an Area exposed to the risk of Piracy the Owners shall have the liberty:
 - (a) to take reasonable preventative measures to protect the Vessel, her crew and cargo including but not limited to re-routing within the Area, proceeding in convoy, using escorts, avoiding day or

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

night navigation, adjusting speed or course, or engaging security personnel on or about the Vessel;

- (b) to comply with the orders, directions or recommendations of any underwriters who have the authority to give the same under the terms of the insurance;
- (c) to comply with all orders, directions, recommendations or advice given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government, body or group, including military authorities, whatsoever acting with the power to compel compliance with their orders or directions; and
- (d) to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement.

32.3 This Clause shall be incorporated into any bill of lading issued pursuant to this Charter Party. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the Master signing bills of lading as presented to the extent that the terms of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Clause.

32.4 If in compliance with this Clause anything is done or not done, such shall not be deemed a deviation, but shall be considered as due fulfilment of this Charter Party. In the event of a conflict between the provisions of this Clause and any implied or express provision of the Charter Party, this Clause shall prevail to the extent of such conflict, but no further.

33. Cesser Clause

The Owners have a lien on Cargo for freight and demurrage at discharging port(s) for an amount not exceeding the value of the freight and demurrage then due. The Charterers' liability under this Charterparty ceases, except as regards clause 7 (payment of freight) when the Cargo is shipped.

34. Bunkering

The Owners may order the Vessel to bunker at any usual bunkering port in Australia including the loading port(s). The Vessel has liberty to proceed to any port at which bunker oil is available for the purpose of bunkering at any stage of the voyage and whether such ports are on or off the direct and/or customary route(s) between any of the loading or discharging ports for this Charterparty. The Vessel may take oil bunkers in any quantity in the discretion of the Owners, whether or not such oil bunkers are required for the chartered voyage. This

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

clause 34 does not affect clause **Error! Reference source not found.** or affect the Owners' obligation in clause 1 to proceed to the discharging port(s) with all reasonable despatch.

35. **General Average and the New Jason Clause**

General average (if any) is payable according to the York-Antwerp Rules, 2004 or any later modification of those Rules and shall be adjusted in the place stated in Box 23, but where the adjustment is made in accordance with the law and practice of the United States of America, the following clause applies:

"NEW JASON" CLAUSE

In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.

If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery.

36. **Both to Blame Collision Clause**

If the liability for any collision in which the Vessel is involved while performing this Charterparty falls to be determined in accordance with the laws of the United States of America, the following clause applies:

"BOTH TO BLAME COLLISION CLAUSE"

If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying ship or her owners to the owners of the said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

The foregoing provisions shall also apply where the Owners, Operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact.

37. **Oil Pollution Clause**

The Owners agree to indemnify the Charterers, Shippers, Receivers, their agents, or any other party against any liability for or arising out of oil pollution (whatever the basis of liability may be) by reason of any act or omission of the Vessel, the Master or any servant or agent of the Owners provided that the incident giving rise to such liability has not been caused or contributed to by the party seeking to be indemnified under this Charterparty and provided that the facts and matters giving rise to the contravention would not constitute a defence under Article 3 Section 2 of the International Convention on Civil Liability for Oil Pollution Damage 1969 if the Vessel were a ship carrying oil in bulk as cargo. The Owners warrant that the Vessel is entered in a Protection and Indemnity Association with cover for liabilities arising under clause 37.

The Charterers are never liable for demurrage due to any delay or loss of time to the Vessel at the loading and/or discharging ports arising in connection with any such act or omission even if on demurrage; any time lost as a result of any such act or omission never counts as laytime.

Nothing in this clause 37 prejudices or deprives the Owners of their rights of limitation or exclusion of liability under any applicable law.

The Charterers hold the benefit of this clause 37 on behalf of themselves, the Shippers, the Receivers and their agents.

38. **Brokerage**

Brokerage at the rate in Box 24 is due upon shipment of Cargo.

39. **ITF Clause**

The Owners warrant that the Vessel complies with all the requirements of the International Transport Workers' Federation (ITF) or any successor organisation during the currency of this Charterparty and must provide evidence to the Charterers of such compliance at the time of nomination. If the Vessel does not possess a current ITF certificate or equivalent acceptable to the ITF, or if the Vessel's certificate lapses at any material time, the Owners must take all reasonable steps to comply or restore compliance with this clause 39 forthwith, in default of which the Charterers may cancel this Charterparty. The Owners must keep the Charterers indemnified against any consequences of a breach by the Owners of their obligations under clause 39 (including without limitation any delay and the Charterers' costs of providing a suitable replacement vessel).

40. **Reletting, Subletting, Subcontracting and Assigning**

40.1 No cargo other than that provided by the Charterers may be carried without the Charterers' written consent which must be obtained prior to

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

the Owners entering into any separate contract of carriage for such cargo, but this clause 40.1 does not apply if the Vessel is sublet by the Charterers. The Charterers may sublet the whole or part of the Vessel, but remain responsible for the due fulfilment of this Charterparty.

40.2 The Owners may not sublet, subcontract or assign any of their rights, duties or obligations or provide a substitute vessel without the Charterers' prior written agreement. The Charterers' agreement under this subclause does not relieve the Owners of their responsibility for the performance of this Charterparty.

40.3 If the Owners fail to perform their obligations under this Charterparty, the Charterers may at their option perform those obligations. Any additional costs incurred by the Charterers, including obtaining replacement vessel(s) and any rates of freight and demurrage exceeding the applicable Charterparty rates of freight and demurrage must be paid by the Owners to the Charterers on demand.

41. Port Charges, Dues and Taxes

41.1 Any taxes, dues, port charges or other charges levied against the Vessel and/or freight are payable by the Owners. Any taxes, dues or other charges levied against the Cargo are payable by the Charterers at the loading port and by the Receivers at the discharging port.

42. BIMCO ISPS/MTSA Clause

42.1

- (a) The Owners shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code relating to the Vessel and "the Company" (as defined by the ISPS Code). If trading to or from the United States or passing through United States waters, the Owners shall also comply with the requirements of the US Maritime Transportation Security Act 2002 (MTSA) relating to the Vessel and the "Owner" (as defined by the MTSA).
- (b) Upon request the Owners shall provide the Charterers with a copy of the relevant International Ship Security Certificate (or the Interim International Ship Security Certificate) and the full style contact details of the Company Security Officer (CSO).
- (c) Loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) caused by failure on the part of the Owners or "the Company"/"Owner" to comply with the requirements of the ISPS Code/MTSA or this Clause shall be for the Owners' account, except as otherwise provided in this Charter Party.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

42.2

- (a) The Charterers shall provide the Owners and the Master with their full style contact details and, upon request, any other information the Owners require to comply with the ISPS Code/MTSA.
- (b) Loss, damages or expense (excluding consequential loss, damages or expense) caused by failure on the part of the Charterers to comply with this Clause shall be for the Charterers' account, except as otherwise provided in this Charter Party, and any delay caused by such failure shall count as laytime or time on demurrage.

42.3 Provided that the delay is not caused by the Owners' failure to comply with their obligations under the ISPS Code/MTSA, the following shall apply:

- (a) Notwithstanding anything to the contrary provided in this Charter Party, the Vessel shall be entitled to tender Notice of Readiness even if not cleared due to applicable security regulations or measures imposed by a port facility or any relevant authority under the ISPS Code/MTSA.
- (b) Any delay resulting from measures imposed by a port facility or by any relevant authority under the ISPS Code/MTSA shall count as laytime or time on demurrage, unless such measures result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers.

42.4 Notwithstanding anything to the contrary provided in this Charter Party, any costs or expenses whatsoever solely arising out of or related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code/MTSA including, but not limited to, security guards, launch services, vessel escorts, security fees or taxes and inspections, shall be for the Charterers' account, unless such costs or expenses result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account.

42.5 If either party makes any payment which is for the other party's account according to this Clause, the other party shall indemnify the paying party.

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

43. Arbitration and Disputes

- 43.1 To the extent that this Charterparty is not compulsorily subject to Australian law or held to be subject to Australian law, this Charterparty is governed by English law.
- 43.2 Any dispute arising under this Charterparty from events which occur in Australia is to be settled by arbitration under the Dispute Resolution Rules of Grain Trade Australia Ltd [GTA] and in accordance with the provisions of the Commercial Arbitration Act 2010 (New South Wales) or the International Arbitration Act 1974 (Cth) as appropriate and any statutory modification or re-enactment thereof for the time being in force.
- 43.3 Any dispute arising under this Charterparty or any Bill of Lading issued under it other than as provided for in paragraph 43.2 must be referred to arbitration in London in accordance with the Arbitration Act 1996 (UK) or any statutory modification or re-enactment thereof for the time being in force. Each party may appoint an arbitrator. On receipt by a party of the nomination in writing of the other party's arbitrator, that party must appoint its arbitrator within fourteen days, failing which the decision of the single arbitrator so appointed is to apply. If the arbitrators do not agree they must appoint an umpire whose decision is to be final and binding.
- 43.4 For any disputes and whether clause 43.2 or 43.3 applies:-
- (a) the arbitrators and umpire must be persons normally engaged in the shipping and/or commodities industries and may be qualified legal practitioners; and
 - (b) other than for any claim in respect of loss, damage or delay to goods (and which is subject to clause 28) any other claim must be made in writing and the claimant's arbitrator appointed within six months of the Vessel's arrival at the final discharging port, otherwise all claims are deemed to be waived.
- 43.5 Despite clauses 43.2 and 43.3, if the amount in dispute is less than US\$100,000.00, the dispute shall be determined by a sole arbitrator in Sydney subject to the LMAA Rules for Small Claims (except to the extent those Rules conflict with this clause 43), the sole arbitrator to be agreed between the parties, but if not agreed to be appointed by the President for the time being of the Law Institute of Victoria.
- 43.6 Despite clauses 43.2 and 43.3 if the amount in dispute is more than US\$100,000.00 but is not more than US\$400,000.00, the dispute shall be determined in Sydney subject to the LMAA Intermediate Claims Procedure 2009 (except to the extent that Procedure conflicts with clause 43).

Part 2

Grain Trade Australia Voyage Charter 2012 (AusGrain 2012)

- 43.7 Any rights under the Contracts (Rights of Third Parties) Act 1999 (UK) or any Statutory modification or re-enactment thereof for the time being in force are expressly excluded.

THIS CHARTERPARTY INCLUDING SCHEDULES ONE AND TWO IS EXECUTED

By the parties on the date written on the first page

.....
Signature (Owners)

.....
Signature (Charterers)

GRAIN TRADE AUSTRALIA VOYAGE CHARTER 2012

SCHEDULE NO.1

"AUSGRAIN BILL"

Shippers

Consigned To

BILL OF LADING

or Assigns, he or they paying Freight for the same as per the below-mentioned Charterparty.

Notify address

Vessel

Port(s) of loading

Port(s) of discharge – direct or via other Ports as per Charterparty
Dated

Shippers' description of goods

[insert Wheat or name of other commodity] in bulk of being the weight ascertained or accepted by the Silo Authority under the custom of the trade, weight shipped unknown, and to be delivered in the like apparent good order and condition at the aforesaid port(s) of discharge.

Silo Authority's Weights –

Weight shipped unknown, but said to weigh:

SHIPPED at the Port(s) of Loading in apparent good order and condition on board the Vessel for carriage to the Port(s) of Discharge specified above

Weight, and quality, unknown.

IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

FOR CLAUSES SEE OVERLEAF

All the terms, conditions, clauses, exclusions, limitations and exceptions of the Grain Trade Australia Voyage Charter 2012 (with any amendments) dated *, including clause 34 (Arbitration) are herewith incorporated.

Place and date of issue

Number of original Bs/L

Signature

Master/Agent

***if undated standard Grain Trade Australia Voyage Charter 2012 including clause 34 (Arbitration)**

This Bill of Lading is to have effect subject to the provisions of the Rules contained in Schedule 1A to the Australian Carriage of Goods by Sea Act 1991, as applied by that Act, and any subsequent amendment thereto. The Shippers

are to be entitled to the benefit of the privileges, rights and immunities conferred upon the Shippers, and the Shipowners are to be entitled to the benefit of the privileges, rights and immunities conferred upon the carrier, by such Act, and the said Schedule 1 thereto, as if the same were herein specifically set out. General Average (if any) shall be settled according to the York-Antwerp Rules, 2004.

WAR RISKS CLAUSE

As per Charterparty

GENERAL AVERAGE AND THE NEW JASON CLAUSE

General average shall be payable according to the York/Antwerp Rules, 2004, or any modification thereof for the time being in force, but where the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:-

NEW JASON CLAUSE

In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.

If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery.

BOTH TO BLAME COLLISION CLAUSE

If the liability for any collision in which the Vessel is involved while performing this Bill of Lading falls to be determined in accordance with the Laws of the United States of America, the following clause shall apply:-

BOTH TO BLAME COLLISION CLAUSE

If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying ship or her owners to the owners of the said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.

The foregoing provisions shall also apply where the Owners, Operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact.

Draft 17/09/12

GRAIN TRADE AUSTRALIA VOYAGE CHARTER 2012

SCHEDULE NO.2

LETTER OF AUTHORISATION UNDER GRAIN TRADE AUSTRALIA VOYAGE CHARTER 2012

To:

Dated:

Dear Sir,

I hereby authorise [*insert name of ship's agent at loading port]

on my behalf to sign original Bill(s) of Lading for my cargo of bulk grain and to sign new Bill(s) of Lading if required by Shippers.

The new Bill(s) of Lading are only to be issued to Shippers in exchange for original Bill(s) of Lading signed by you which Bill(s) are then to be cancelled.

.....

Master

M.V. [*insert name of Vessel]