

**STANDARD TERMS OF AGREEMENT OF DONATION  
Of Grain Produce to  
The Trustees of the Grain Care Trust (IT: 9332/06)  
("Grain Care")**

**DONATION SHEET**

<b>NAME OF DONOR:</b>	
<b>ADDRESS OF DONOR:</b>	
<b>REGISTRATION NUMBER:</b>	
<b>REPRESENTED BY:</b>	
<b>ID NUMBER:</b>	
<b>TELEPHONE NUMBER:</b>	
<b>VAT NUMBER:</b>	
<b>EMAIL ADDRESS:</b>	
<b>PRODUCT AND GRADE DONATED:</b>	
<b>QUANTITY DONATED:</b>	
<b>SILO LOCATION</b>	
<b>SIGNATURE:</b>	

**1 Interpretation**

**1.1** Words defined in the heading to this agreement shall have the meanings assigned to them therein.

**1.2** The headings to the clauses of this agreement are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate.

**1.3** Unless a contrary intention clearly appears, words importing any one gender shall include the other genders, the singular shall include the plural and vice versa and natural persons shall include artificial persons (including trusts and partnerships) and vice versa.

**1.4** Unless a contrary intention clearly appears, the following terms shall have the meanings assigned to them hereunder:

**1.4.1** "this Agreement" means the Donation of the Product embodied in this document, as amended from time to time in accordance with the terms;

**1.4.2** "Applicable Law" means any applicable law, by-law, regulation, regulatory policy (including any requirement or notice of any regulatory body or agency), any directive, code of conduct or any delegated or subordinate legislation, applicable to the Product, with reference to the intended use and storage of such Product;

**1.4.3** "Donation" means the gratuitous disposal and transfer, waiver and renunciation of the rights and interest to the Product in favour of Grain Care for the carrying out of public benefit activities approved in terms of Section 18 A of the Income Tax Act, 1962;

**1.4.4** "the Donor" means the identified donor as reflected on a Donation Sheet;

**1.4.5** "Donation Sheet" means an electronic and/or physical Donation Sheet found on the website of Grain Care: [www.unigrainco.za](http://www.unigrainco.za) which may be completed electronically and submitted for acceptance or which may be printed, scanned to: [graincare@unigrain.co.za](mailto:graincare@unigrain.co.za)

**1.4.6** "Effective Date" means the date of acceptance of the Donation;

**1.4.7** "Encumbrance" includes any mortgage bond, notarial bond, pledge, lien, hypothecation, assignment, security or out and out cession, deposit by way of security or any other agreement or arrangement (whether conditional or not and whether relating to existing or to future assets), having the effect of providing a security interest or preferential treatment to a person over another person's assets (including set-off, title retention or reciprocal fee arrangements) or any agreement or arrangement to give any form of security or preferential treatment to a person over another person's assets but excluding statutory preferences and "Encumbered" shall be construed accordingly

**1.4.8** "Grain Care" means the Trustees of the Grain Care Trust, appointed as such from time to time by Master of the High Court in terms of the Trust Property Control Act, 1988, a Public Benefit and Non-Profit Organization with PBO nr. 930022895 and NPO nr. 054-760-NPO;

**1.4.9** "the Parties" means the Donor and Grain Care;

**1.4.10** "the Product" – means the agricultural grain or oil seed produce noted in the Donation Sheet; and

**1.4.11** "the Rights and Interests" means all the Donor's rights and interests in and to the Product with effect from the Signature Date (including without limitation all rights to the proceeds of the sale, transfer or disposal of such Product), whether actual, prospective or contingent, direct or indirect, and whether or not the said rights and interests were within the contemplation of the Parties at the Signature Date.

**2 Donation**

**2.1** The Donor donates the Product to Grain Care as per a completed and submitted Donation Sheet.

**2.2** On receipt of a Donation Sheet Grain Care may accept the Donation in writing, either physically or electronically, as meant in the Electronic Communications and Transactions Act, 25 of 2002.

**2.3** The Donation includes all benefits now or as hereafter may become due in respect of the Product.

**2.4** The Donation will be enforceable from date of acceptance by Grain Care, whether the Donor has actual knowledge of acceptance or not, and will be perfected and completed by virtue of delivery in full of the Product.

**2.5** Delivery will occur by transfer of the Product from the Donor's folio at a registered Agricultural Silo to Grain Care's folio, or a Grain Care nominee's folio, at the same Silo.

**2.6** The Donor undertakes to complete and sign all documentation, and to take all requisite steps for the purposes of effecting and perfecting the Donation on request by Grain Care.

### **3 Warranties**

The parties warrant and represent as follows (and this Agreement is accordingly based thereon):

**3.1** The Donor warrants to Grain Care it is the beneficial owner and holder of the Product;

**3.2** The Product is not subject to any right of retention or other limitation or Encumbrance and may be Donated and delivered by the Donor without any limitation;

**3.3** No right of pre-emption or option exists or will exist in respect of the Product;

**3.4** The Donor warrants that it has the necessary legal capacity to make the Donation and Grain Care warrants that it has the necessary legal capacity to accept the Donation; and

**3.5** Grain Care represents and warrants that it is a Public Benefit Organization registered with and approved by the South African Revenue Services ("SARS") and that it performs public benefit activities as contemplated by SARS (mentioned in Part II of the Ninth Schedule to the Income Tax Act, 1962);

**3.6** The Donor represents warrants that the Product donated complies with the South African Future Exchange's ("SAFEX") grading specifications as elected by the Donor on the Donations Sheet.

**3.7** The Donor represents and warrants that the Product donated will comply with Applicable Legislation, more so where the SAFEX grading of the Product on the Donation Sheet implies that the Product is fit for Human Consumption. In such event the Product must be fit for human consumption. The Product will further be fit for storage at a Silo or approved storage facility, without risk of contaminating other produce held at such Silo or storage facility.

### **4 Costs**

The Donor shall bear and pay all costs relating to the Product, including but not limited to transport, Product insurance, sifting, treatment, storage thereof and handling fees of a Silo or storage facility incurred up to date of transfer of the Product by entry of the Product on Grain Care's folio or a Grain Care nominee's folio. Any amounts expended by Grain Care for which the Donor is liable in terms hereof shall be a debt due by the Donor to Grain Care, payable on demand.

### **5 Indemnity**

**5.1 "Claim"** means any claim, legal action, proceeding, suit, litigation, prosecution, investigation, inquiry or arbitration, whether actual, pending or threatened, by a third party and/or authority, the cause of which arose from this Agreement, where Grain Carrier or its nominee/s may be or is held liable for injury, death, loss, damage, expense, cost, whether direct or indirect, whether consequential or not, including loss of profit or business, or increased expense, legal charges and expenses (including legal costs on a scale of attorney and client) (collectively "Losses") suffered from a breach of this Agreement, or any warranty, undertaking or promise herein contained or arising by the Donor.

**5.2** The Donor absolves Grain Care absolutely from, and indemnifies Grain Care against any Losses which Grain Care may suffer as a consequence directly or indirectly, of any Claim.

**5.3** Grain Care absolves and indemnifies the Donor against any taxes incurred by the Donor as a result of Grain Care not meeting with the requirements of Part II of the Ninth Schedule to the Income Tax Act, 1962, as above.

### **6 Breach**

If the Donor breaches any of the terms or conditions of this Agreement and fails to remedy that breach within SEVEN (7) days of dispatch of a notice calling upon it to do so then Grain Care shall be entitled, without prejudice to its other rights in law, to cancel this Agreement or to claim

specific performance in either event, without prejudice to Grain Care's right to claim damages and/or Losses.

### **7. Domicilium Citandi Et Executandi**

**7.1** The Donor chooses as his *domicilium citandi et executandi* address the physical address in the Donation Sheet for purposes of legal process and as his notice address, the email address contained in the Donations Sheet.

**7.2** For the purposes of this Agreement, Grain Care chooses as its *domicilium citandi et executandi* address the below physical address for purposes of legal process and as its notice address, the following email address:

<b>Physical address:</b>	<b>1 Mercedes Street, Aureus Randfontein, Gauteng, R.S.A.</b>
<b>Email address:</b>	<b>graincare@unigrain.co.za</b>
<b>For attention:</b>	<b>Anél Knoetze</b>

**7.3** Any notices or consents required in terms of this Agreement, must be in writing, and provided by the Party concerned.

**7.4** Any notice given in terms of this Agreement shall be deemed:

**7.4.1** if delivered by hand, to have been duly received by the addressee on the date of delivery;

**7.4.2** if sent electronically, be deemed to have been received on the 1st business day (a day other than a Saturday, Sunday or public holiday in the R.S.A.) following the successful transmission thereof, as evidenced by the electronic confirmation of delivery, unless the contrary is proven.

**7.5** Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party shall be an adequate written notice of communication to such Party.

### **8. General**

**8.1** In the event that any of the terms of this Agreement are found to be invalid, unlawful or unenforceable, such terms will be severable from the remaining terms, which will continue to be valid and enforceable.

**8.2** No latitude, extension of time or other indulgence which may be given or allowed by either Party to the other Party in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Agreement, and no single or partial exercise of any right by either Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or stop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each provision or term hereof.

**8.3** This document with an accepted Donations Sheet embodies the entire agreement between the Parties and no amendment or addition or variation or cancellation of any of the provisions of this Agreement shall be of any force or effect unless reduced to writing and signed by both Parties. This Agreement supersedes all prior agreements, arrangements and understandings between the Parties relating to that subject matter.

**8.4** This Agreement may be signed in counterparts and the copies signed in counterpart shall constitute the Agreement. This shall include faxed and electronic copies of this document.

**8.5** The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

**8.6** Neither party may cede, assign or delegate the rights and obligations contained in this Agreement, in whole or in part, without the prior written consent of the other party.

**8.7** Each Party shall pay its own cost of negotiating, drafting, preparing and implementing the Agreement.

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**SIGNATURE**