

**MOSES & SON**

A.B.N 24 000 899 847

Woolbrokers since 1920

1-3 Ironbark Street Temora

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E-mail: [mmoses@mosesandson.com.au](mailto:mmoses@mosesandson.com.au)Website: [www.mosesandson.com.au](http://www.mosesandson.com.au)**TERMS AND CONDITIONS OF SALE****1<sup>st</sup> August 2018****(To be read in conjunction with Post Sale Handling Fees)****1. DEFINITIONS:**

**Buyer:** The buyer is any person who the broker accepts a bid from for the purchase of a Vendor's wool.

**Vendor:** The Vendor is the owner of the wool offered for sale.

**Note:** Words importing to the masculine gender only shall include the feminine gender and vice versa.

**2. INCORPORATION OF WOOL EXCHANGE RULES**

The provisions of:

- (a) The Australian Wool Exchange Limited Rules (Wool Exchange) and
- (b) The Wool Exchange Rules for electronic transfer, as they apply from time to time.

**2. ACCEPTANCE OF THE TERMS AND CONDITIONS OF SALE**

A bid by a Buyer will constitute acceptance of these Terms and Conditions of Sale.

**3. BIDDING**

- (a) The Vendor reserves the right of one bid and of refusing any bid without giving any reason therefore and subject there to the highest bidder shall be the Buyer.
- (b) Bidding shall advance by a minimum of one cent per kilogram greasy (1c/kg AUD).
- (c) The auctioneer shall announce the lot number before bidding commences on a lot. Audible bids of not less than one (1) cent shall be accepted. When bidding has ceased, the auctioneer shall, before the fall of the hammer, announce the price and the Buyer, or the highest bidder in the case of the lot being passed-in.
- (d)
  - (i) In the event of a Buyer requesting that a lot which has bought in error be re-submitted in the Sale Room, providing that no more than 10 of the succeeding lot have been dealt with, the Buyer shall be released of his purchase and the lot shall be immediately re-offered. Should the Buyer still be interested in the lot, he shall state his top price. Under no circumstances will he be permitted to re-enter the bidding if the price is exceeded, nor will be entitled to receive the whole or part of the lot by transfer from the ultimate buyer.
  - (ii) Furthermore, any other buyer in the Sale Room may claim the lot at the price stated by the first Buyer when the lot is re-submitted in which

case the first Buyer shall have no further interest in the lot.

(iii) In the event of a serious dispute arising in the Sale Room with regard to a disputed bid a dissatisfied Buyer may, after the auctioneer has given his decision, request to submit the question to the room for immediate decision by a show of hands, and the auctioneer may do so.

- (e) The auctioneer may request a sold lot to be passed-in or a passed-in lot to be sold, provided that not more than ten (10) of the succeeding lots in the catalogue have been dealt with.

(f) (i) No buyer shall be allowed to claim a lot in the Sale Room at the reserve price declared by the auctioneer, unless the last bidder has refused to advance.

(ii) In the event a lot is passed-in, the highest bidder may negotiate with Moses & Son staff on a lot or declare to Moses & Son staff their willingness to forgo his option until:  
Noon the next working day following the sale.

During the option period, no other buyer shall be allowed to claim the lot on the Reserve Price declared by Moses & Son staff.

**4. SAMPLE RETENTION**

The display grab sample will be retained until 10am following working day. By special request to Moses & Son Staff samples may be retained for longer periods.

**5. PROPERTY AND RISK**

(a) Property and risk in the goods sold shall pass to the Buyer on the fall of the hammer.

**6. PAYMENT**

- (a) Payment method

Nine (9) days (or an agreed extension thereof) from and including Thursday of an auction sale series shall be allowed for payment for wool purchases. This period shall be known as the "Payment Period", the expiry date shall be known as "Payment Day".

- (b) Payment Method

Payment shall be made by cash, bank cheque, electronic transfer or cleared telegraphic transfer

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before the delivery of the wool or, on, or prior to the Payment Day; whichever is the earlier.

**(c) Payment Time**

**Expiry time from payment, on any payment day, shall be 4.00 pm and payment shall be deemed to have been made on the day the funds are cleared and credited to Moses & Son's account.**

**(d) Payment Summaries**

(i) When multi-payment is to be made to Moses & Son's central payments office, a complete payment summary must be advised to that office no later than 2.00 pm on the day of payment.

(ii) Buyers remitting payments by electronic or telegraphic transfer must forward, in advance, full particulars by, facsimile or E-mail to Moses & Son.

**(e) Bank Holiday**

Where payment is unable to be made to Moses & Son's account by the Payment Day due to a NSW bank holiday, payment may be made on the next working by 4.00 pm without penalty.

**(f) Part Payments for Wool Purchases**

When making part payment for invoiced summaries, Buyers shall give particulars of sale number, lot number and number of bales to Moses & Son.

**(g) Early Payments**

Moses & Son **do not** offer a buyer discount.

**(h) Part Payment**

(i) Where the entire invoice cannot be paid in full, part payment will be accepted. This will only be allowed if payment corresponds with complete lots within the outstanding invoice

**(j) Late Payments**

(i) Moses & Son shall notify any defaulting Buyer or the original Buyer if the wool has been transferred, of any late payment.

(ii) Interest shall accrue on late payments for wool purchases and all other charges at the rate advised by Moses & Son.

If:

(a) A deposit has been paid for any goods sold; and

(b) The Buyer has not paid for part or all of those goods (unpaid goods); then

(c) The Buyer forfeits to the Vendor 10% of the percentage of the deposit equal to the proportion the Unpaid Goods bears to the goods sold; and

(d) Moses & Son may retain the unpaid goods and resell them by public auction or private sale without notice to the Buyer; and

(e) The Buyer is liable to the Vendor and Broker for any damage suffered by the Vendor or Broker by reason of the non-payment.

**(i) Transferred Lots**

If the transferee of any lot(s), transferred in accordance with the Rules of the Wool Exchange, does not pay in full for any such lot on or before the Payment Day, then the original Buyer shall be liable to Moses & Son for the payment thereof and any associated changes.

**7. DELIVERY****(a) Delivery – complete lots**

(i) Delivery shall be by complete lots only.

(ii) Each complete lot shall be available for collection from Moses & Son's storage complex within the storage center.

**(b) Delivery of wool from Moses & Son store**

Subject to all parties meeting their commitments and in particular the provisions of 8:

(i) When delivery of wool is called for, Moses & Son shall give delivery within two (2) clear working days (**NSW & SA only**) for the receipt of delivery orders and instructions; For delivery required from Temora, Wagga and Goulburn stores to Victorian destinations, three (3) clear working days are required; For delivery required from Condobolin stores

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to Victorian destinations four (4) clear working days are required; and

(ii) In the case of wool for delivery to the Buyer's own transport, Moses & Son shall give delivery with two (2) clear working days from the receipt of delivery orders, provided the carrier gives notice of intended collection on the prior working day.

(iii) Buyers note that notification of payment of wool alone does not constitute the settlement of the transaction. Moses & Son must receive proof of cleared funds before instigating the wool movement.

(c) Mislaid wool

(i) Without in any way negation the provisions of 7(b) above, if wool is not delivered within three (3) clear working days from receipt of delivery instructions due to the wool having been mislaid, the Buyer shall be entitled to cancel the lot and to a cash settlement equal to the invoiced amount plus the amount of interest accrued at the penalty rate.

(ii) A cancellation fee, at an agreed rate per sale lot or part sale involved, to cover documentation and other costs, shall also be paid to the Buyer, and interest at an agreed rate shall be added to the number of days between the due date of delivery and when the cash settlement referred to in (I) above is paid.

(iii) All monies payable in accordance with sub clauses (i) and (ii) above must be paid within seven (7) days.

(iv) If within seven (7) days from the due date of delivery the Buyer has not elected to cancel the lot and accept cash settlement, and the wool is found, the Buyer shall take delivery and be refunded interest only for the number of days between the due date of delivery and the date on which the Buyer is advised that the wool has been found.

(d) Delivery to designated locations

The Buyer shall bear the expense of Moses & Son transporting the goods from Moses & Son's store to any designated location as specified in the Rules of

the Wool Exchange, and as set out in the Moses & Son Post Sale Handling Fee schedule.

(e) Delivery at Broker's store door

The Buyer may take delivery of wool at Moses & Son's store door, and will be entitled to a freight allowance as specified in Moses and Son's post sale handling charge schedule.

**8. CHARGES**

(a) Moses & Son shall determine charges to be paid by the Buyer to meet costs associated with the post sale warehousing of wool.

(b) Moses & Son shall charge the Buyer for wool held in store beyond the Payment Day and

(i) Daily rates to apply will be determined by Moses & Son:

(ii) The charge will apply from the day after the Payment Day up to and including the day prior to delivery, provided the delivery has been effected as requested.

If delivery is not effected as requested, the Buyer will not be liable for any charges beyond the requested delivery date.

(iii) Storage charges become due and payable on receipt of the monthly account by the Buyer.

(c) The Buyer shall pay Moses & Son fees for any other service(s) carried out by Moses & Son at the request of the Buyer, including for example, countermarking.

(d) If a transferee fails to pay charges incurred, the original Buyer will be responsible for paying to Moses & Son all charges due.

(e) If the Buyer offers wool for resale, the pre-sale charges to apply will be agreed between the Buyer and Moses & Son.

(f) Details of any changes to Moses & Son's charges shall be advised to the Buyer by Moses & Son giving the Buyer fourteen (14) days from the date advice to adjust the revised level of charges.

**9. FORCE MAJEURE**

(a) No party is liable for any failure to perform or delay in performing its obligations under these Terms and

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Conditions of Sale. If that failure or delay is due to anything beyond that party's reasonable control (including, but not limited to: fire, storm, flood, earthquake, explosion, war, invasion, rebellion sabotage, an act of terrorism, labour dispute labour shortage and failure or delay in transport) the other parties obligations are suspended until the first party resumes performance.

- (b) If the failure or delay exceeds 30 days, any party may terminate the contract with immediate effect by giving notice in writing to the other parties. At the same time, it may also send a copy of the notice to the Wool Exchange for noting.

**10. RESOLUTION OF DISPUTES**

- (a) **Disputes or claims of a quality nature can only be lodged on "P", "Q" and "I" certified lots. That is:- Wool classed by a Registered Woolclasser to the AWEX Code of Practice – preparation of Australian Wool Clips.**

- (b) Except in the case of a dispute arising out of Clause 13, any dispute or difference whatsoever arising out of or in connection with this contract shall be submitted to mediation. Where the parties have not agreed upon a mediator, either party may refer in writing by certified mail, any such dispute or difference to the Chief Executive Officer of the Australian Wool Exchange. The CEO of AWEX will make the appointment of a mediator to mediate such dispute or difference in opinion. The mediation must be conducted in accordance with and subject to The Institute of Arbitrators Australia Rules and deal with the appointment of a mediator; the appointment must happen within 14 days of receiving the notice or dispute.

- (c) If the dispute of difference is not settled within 30 days of the submission to mediation (unless such period is extended by agreement of the parties), it shall be and is hereby submitted to Arbitration in accordance with and subject to the Australian Wool Exchange Rules of Arbitration.

**11. BUYERS RECEIPT OF WOOL PURCHASED**

- (a) Delivery to Buyer's carrier.

Delivery of goods by Moses & Son from their store to a carrier, purporting to receive them on behalf of the Buyer under a delivery order of apparent validity, (and the determination of the apparent validity of a delivery order shall be at the sole discretion of Moses & Son), shall constitute valid delivery to the Buyer.

- (b) Delivery from Broker's store door

Delivery shall (in every instance) be deemed to take place from the moment when the goods leave the store door, and from that moment, the full possession, custody and control of the goods and all responsibility shall be to the buyer or their transferee.

**12. BROKER INSURANCE**

Moses & Son shall insure (and keep insured) the wool against all loss or damage until the fall of the hammer. Where Moses & Son acts as a bailee after the fall of the hammer Moses & Son will maintain insurance as bailee.

**13. REPRESENTATIVENESS OF THE SAMPLE – BULK INSPECTION**

- (a) Sample and bulk inspection

Until 12-noon on the Friday of the sale week Moses & Son shall provide every reasonable opportunity for the Buyer to examine the bulk of the bales.

With sale by sample wool, the bale shall be opened in the presence of a representative of the Buyer, the Australian Wool Testing Authority Ltd. and Moses & Son. If the Buyer and Broker cannot reach agreement that the sample or the display bale is representative of the bulk, the matter shall be referred to the Wool Exchange.

- (b) Dispute resolution

Where a dispute has arisen, the matter shall be referred to the Wool Exchange where their decision shall be final.

**14. VENDOR ACCOUNT SALE**

Moses & Son shall not be required to account to the Vendor for the sale price of the goods sold until: the expiry of the Payment Period or any extension thereof, or Moses & Son has received payment for the goods in full, whichever is the later date.

**15. VENDOR AGENT**

The Vendor appoints Moses & Son as his agent for the purpose of selling the goods on the terms of the Terms and Conditions of Sale.

**16. WOOLTRADE:**

Moses and Son participate in the (Auctions Plus) Wooltrade selling platform. Buyers purchasing wool with these systems should note that these Terms and Conditions extend to all Wooltrade transactions.