

# Member Update

No. 23 of 2023 • 22nd August 2023

**TOPIC: Proposed Modifications to the GTA Storage & Handling Agreement.**

**DISTRIBUTION: GTA Members – primary contact list. Please circulate to all appropriate internal parties.**

## 1. Purpose

- To provide GTA members with the opportunity to review and provide input into the proposed modifications to the GTA Storage & Handling Agreement. The proposed modifications are intended to improve support for GTA members in the event grain storage companies become insolvent and enter into administration.

## 2. Background

- As reported in GTA [Member Update No. 13 of 22](#) and [Member Update No. 16 of 23](#) Administrators were appointed to Moulamein Grain Services Pty Ltd in August 2022. With the consent of the owners of the remaining grain stocks held in the Co-Operative storage sites, and pursuant to Court Orders, the Administrators sold the remaining surplus grain. A dispute arose as to the distribution of the proceeds.
- This surplus grain identified by the Administrator were grades of grain identified (by grade) that did not correspond with the grain/grade inventory records of the Co-Operative. This grain was identified as surplus and retained by the Administrator.
- A number of the clients of the Co-Operative involved in the Federal Court case are GTA Members (**Interested Parties**). They claimed entitlement to the surplus grain as it was believed grades of their grain received by the Co-Operative had changed or been regraded from grain / grades recorded in the client's inventory records noting this is common in the grain industry.
- The Federal Court ruled on 20 June 2023 that based on the available Co-Operative records and the court's understanding the grain owners had apparently "abandoned" their claims as ownership could not be established and the surplus grain could be retained by the Administrators for the benefit of all creditors.

## 3. Proposed Modification to the GTA Storage & Handling Agreement

- As the Court's ruling was based on the apparent abandonment of claims of ownership of the commingled grain GTA has considered how it may be addressed through **modifications to the GTA Storage & Handling Agreement**.
- Revisions to the Storage & Handling agreement have been proposed and reviewed by the Commerce Committee and endorsed to seek GTA Member comment.
- The DRAFT revised [Storage & Handling Agreement](#) (highlighted sections are where changes have been made) is provided for GTA member review and comment via submissions to the GTA Commerce Committee.
- Submissions will be considered by the GTA Commerce Committee, and the revised Storage and Handling agreement will be submitted to the GTA Board for approval and subsequent publication.

#### 4. Calling for Comment

- The GTA Commerce Committee is seeking GTA members submissions on the proposed modifications the GTA Storage & Handling Agreement.
- You are invited to provide written feedback or comments about the proposed modifications.
- The deadline for GTA members to provide feedback is by **COB on the 1<sup>st</sup> of September 2023**.

#### 5. GTA Member Considerations arising from the Moulamein case

- As advised in [Member Update 16 of 23](#) GTA Members should also:
  - Familiarise themselves with Information on the GTA Website for [Managing Insolvency](#).
  - Review GTA Fact Sheets - Grain Contracts [Managing Counterparty insolvency](#) and [Managing Counterparty Risk](#) .
  - Ensure they register their security interests on the [Personal Property Securities Register \(PPSR\)](#) for grain contracted with and/or delivered to any counterparty and/or held in any third party storages.
  - In any future insolvency where grain is held in third party storages, immediately affirm and assert their interests in the grain, including commingled stocks, with Administrators, and where possible request outturn of their grain in a manner consistent with the relevant storage and handling agreement. This should be evidenced in writing.
  - Take advice before agreeing to any proposal from Administrators/Liquidators as to dealings with grain in storage.

#### 5. For further Information

- If GTA members require further information on this Member Update, please contact GTA at [admin@graintrade.org.au](mailto:admin@graintrade.org.au)