

EWR, INC.
PEANUT WAREHOUSE (ISSUER) AGREEMENT

THIS AGREEMENT is entered into as of the ____ day of _____, by and between EWR, Inc., a Tennessee corporation ("EWR"), and _____ ("Issuer"), for the purposes and on the terms and conditions hereinafter set forth. See the attached list of Issuer's locations providing for each warehouse covered by this agreement: the warehouse code number; telephone number; fax number; contact person; street address; and email address.

RECITALS

1. Issuer is the operator of a peanut storage warehouse, which issues warehouse receipts to the depositor of peanuts stored in such warehouse. Issuer represents that it is, and will be at all times while this Agreement is in effect, lawfully authorized to create warehouse receipts. Issuer desires to maintain a system for issuing warehouse receipts for peanuts in customary form and content by electronic means (the "electronic warehouse receipt"), and desires to become an issuer of the electronic warehouse receipt for peanuts through EWR.
2. EWR maintains and operates certain computer systems for storage, maintenance, transfer, and management of electronic warehouse receipt data.
3. The purpose of this agreement is to establish the terms and procedures governing the providing of electronic warehouse receipt services by EWR and their issuance by Issuer.
4. The Issuer desires to encourage EWR to develop and maintain, for its use and use by others in the peanut industry, software and related systems to accomplish the transfer of negotiable and nonnegotiable instruments of title representing quantities of peanuts by electronic means, and related services.
5. It is contemplated that the Issuer will be one of several companies engaged in the peanut industry who agree with EWR to these terms for the development and operation of the proposed software and systems.
6. EWR is experienced in providing electronic transfer services for agricultural products, and is willing to

develop software and necessary systems for the peanut industry, provided that it is assured that the fruits of its labor will remain its exclusive property.

NOW, THEREFORE, for and in consideration of the mutual agreements hereinafter set forth, EWR and Issuer agree as follows:

1. TERM/RENEWAL. This Agreement shall become effective as of the date set forth above, and shall continue at least until July 31, unless terminated as provided herein, and shall automatically renew for successive one year periods commencing on August 1 of each subsequent year.

2. SYSTEMS DEVELOPMENT AND MAINTENANCE.
The EWR Inc. electronic peanut receipt system will provide the following basic functionality to users of the system: create receipt (warehouse only); maintain/edit required receipt data (warehouse only); transfer receipt between holders; allow for receipts to be placed in the CCC loan; allow for conversion of receipts between electronic and paper formats; allow for a receipt to be voided; and allow for a receipt to be changed.

Pursuant to the terms hereof and while this agreement is in effect, EWR grants a non-exclusive license to use the Systems. EWR will retain ownership of the System, and no ownership or transferable rights in the Systems are or shall be granted to the undersigned by this agreement. The parties agree that all software and systems heretofore or hereinafter developed by EWR will at all times remain the exclusive property of EWR, and that the undersigned shall obtain no ownership or transferable rights or interest of any kind in the software and systems developed by EWR. Issuer shall not replicate the look and feel of the EWR systems.

3. EWR SERVICES. For the fees set forth in the EWR Tariff, and commencing as provided therein, EWR will provide the following services for the benefit of the Issuer:

A. Provide a data format and system for Issuer to create and maintain electronic warehouse receipts. A format shall be supplied by EWR containing sufficient fields to encompass all

data required to be included in a warehouse receipt pursuant to Article 7 of the Uniform Commercial Code or the Grain Standards and Warehouse Improvement Act of 2000. Issuer will be solely responsible to make accurate entry of such data into the EWR system in the format provided.

- B. Providing, for the charges set forth therein, such standard reports as may be described in the Tariff.
- C. Providing such other reports as may be reasonably requested by Issuer; provided however, that for any such reports not reflected by the Tariff, EWR shall be entitled to a reasonable fee for preparing and transmitting any such report.
- D. Comply with USDA rules and regulations governing Providers of electronic warehouse receipt services.
- E. Provided Issuer is a "Holder" of an electronic warehouse receipt as that term is defined in the Grain Standards and Warehouse Improvement Act of 2000 and the regulations promulgated thereunder (currently 7 CFR Part 869), EWR shall comply with Issuer's instructions concerning transfer of such electronic warehouse receipt.

4. CHARGES. The Issuer agrees to pay EWR within ten (10) days of invoice date charges for services provided by EWR in connection with this Agreement, as set forth in EWR's Tariff, a copy of which is attached. Such charges may be reviewed and updated by EWR with notice of any charges to be provided at least thirty (30) days before they become effective. Any amended or revised Tariff shall become part of this Agreement. If Issuer fails to make timely payment of such charges, EWR may suspend service until paid.

5. DATA/ISSUANCE OF RECEIPTS

- A. EWR agrees to provide the Issuer specific data transmission formats, and instructions and information regarding the manner by which such data shall be transmitted to EWR by Issuer.

- B. The Issuer agrees to accurately provide all required Electronic Warehouse Receipt Data in the prescribed formats. EWR shall have no responsibility to supply or correct missing or incorrect data. "Required electronic Warehouse Receipts Data" means that information required by applicable law to issue a valid warehouse receipt.
- C. Issuer will be lawfully authorized to issue warehouse receipts, and will have the sole responsibility for issuing electronic warehouse receipts, printing paper receipts (if required) and canceling electronic warehouse receipts.
- D. Issuer agrees to issue all of its electronic warehouse receipts only through EWR during the term of this Agreement.
- E. Issuers and the USDA will have the sole authority to change the required Electronic Warehouse Receipt Data. Optional data may be changed by subsequent Holders or EWR. EWR's responsibility will be limited to modification of such data based upon change information transmitted to EWR by Issuer.
- F. In the event Issuer receives notice from the United States Department of Agriculture ("USDA") of suspension, cancellation, termination, or revocation of Issuer's USWA license, if applicable, or Commodity Credit Corporation ("CCC") Storage Agreement, if applicable, or receives notice of any legal impediment to Issuer's operation as a lawful warehouse, Issuer shall immediately notify EWR of such condition. EWR is authorized by Issuer to comply with requests or directions by USDA or other governmental entities, regarding any electronic warehouse receipts issued by the Issuer previously or in the future.
- G. The Issuer shall be responsible for monitoring and verification of its information in the EWR system, and shall notify EWR immediately upon the discovery of any error or discrepancy. Upon request by EWR Issuer shall verify the accuracy of the information in the EWR system relevant to Issuer.
- H. Issuer shall comply with all applicable laws and regulations, including 7 C.F.R. Part 869. Issuer will

not cause an electronic warehouse receipt to be issued for peanuts if another receipt, paper or electronic, is outstanding, unless such receipt has been lost and Issuer has complied with applicable law and regulations for reissuance.

6. EQUIPMENT. The Issuer will at its cost provide its own computer facilities, internet services, long distance services, together with a modem and a telephone line or satellite, cable, DSL line, or other telecommunication means, for use of the electronic warehouse receipt data communication and storage system. Issuer shall insure that such facilities will be compatible with EWR's system.
7. HOURS OF ACCESS.
 - A. Except as provided herein, EWR shall make the electronic warehouse receipt system operative and accessible as required by the USDA.
 - B. EWR shall provide notice to the Issuer as follows:
 1. For scheduled down time, an advance notice of at least 4 calendar days; and
 2. If unforeseen events cause the electronic warehouse receipt system to be inaccessible to the Issuer, EWR will make efforts to promptly notify the Issuer.
 - C. Hours of operation may be diminished as permitted by USDA.
8. NOTICE: Notices or communications shall be given in writing by U.S. Mail, hand delivery, or facsimile. Each party initially designates herein the contact person and alternate person to be contacted with respect to any matter relating to this Agreement. By written notice, including by the EWR Tariff, such contact persons may be changed. Unless otherwise notified, the parties shall direct all such communications to the persons designated:

<u>Participant</u>	<u>EWR</u>
Contact: _____	Contact: Tom McCune
Alternate: _____	Alternate: Cayce Maidens
Address: _____	Address: 81 Peyton Parkway #101
City/State/Zip: _____	Collierville, TN 38017
Phone: _____	Phone: 901-753-5026
Fax: _____	Fax: 919-571-0772

9. TERMINATION: Either party may prevent the renewal of this Agreement by giving the other party timely written notice that it will not be renewed. Such written notice shall be delivered to EWR or Issuer on or before the 1st day of June occurring prior to the next renewal date. In case of material breach by either party the other may terminate upon 30 days written notice, provided however, that if such breach is curable, prior to giving such 30 days written notice, 10 days written opportunity to cure shall have been given and the party in breach shall have failed to cure.

10. AMENDMENT. If required to meet USDA directions this Agreement shall be amended from time to time by issuance of a written addendum by EWR. EWR may amend the agreement prospectively, by giving notice thirty (30) days in advance of the proposed amendment (either by special notice, or in EWR's tariff), and in such case, Issuer may terminate its use of EWR's services by giving notice during said thirty (30) day period; if Issuer does not so terminate, but continues to use EWR's services it will be deemed to have agreed to the amendment.

11. SECURITY. Issuer may gain access to the EWR system only through use of a confidential "password" or "passwords". The Issuer will be advised of an appropriate password, methods, and format to gain access to EWR's system. EWR may also provide a method for Issuer to change its password from time to time. Issuer agrees to follow EWR security instructions. The Issuer and EWR agree to maintain the confidentiality of the password(s). Issuer will be responsible for any actions taken using its password(s).

12. DUTY OF CARE/LIMITATION OF LIABILITY. Issuer acknowledges that data processing entails the likelihood of some human and machine errors, omissions, delays, and losses, which

may give rise to loss or damage. Accordingly, Issuer agrees that EWR shall not be liable on account of any such errors, omissions, delays, and losses unless caused by its gross negligence or willful misconduct. ISSUER AGREES THAT IN NO EVENT WILL EWR BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES. ISSUER FURTHER AGREES THAT IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF EWR FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING UNDER THIS AGREEMENT AND THE SERVICES PERFORMED HEREUNDER, EXCEED THE GREATER OF: \$5,000.00; OR THE TOTAL AMOUNT PAID BY THE ISSUER TO EWR PURSUANT TO THIS AGREEMENT DURING THE PRECEDING TWELVE (12) MONTH PERIOD.

EWR shall have no obligation to maintain any data or other record, electronic or otherwise, for more than six (6) years from its creation, with the exception of the audit log and trail required by USDA which will be maintained for a period of six (6) years after December 31 of the year in which the electronic receipt is canceled or the Grain Standards and Warehouse Improvement Act of 2000 electronic document was issued. In case of any claim against EWR it shall be a condition precedent to such claim that written notice of such claim shall be made to EWR as soon as possible and in no event over thirty (30) days after the claim arose, and suit thereon shall be brought within one (1) year after the claim arose. Issuer shall adopt such measures as it deems appropriate to limit its exposure with respect to such potential losses and damages, including (without limitation) examination and confirmation of results prior to use thereof, provision for identification and correction of errors and omissions, preparation and storage of backup data, replacement of lost or mutilated documents, and reconstruction of data. Issuer agrees to maintain at all times alternative methods capable of replacing any lost data. Issuer will indemnify and hold harmless EWR and its officers, employees, agents and attorneys from all loss and liability, including attorney's fees, which results from Issuer's failure to perform its obligations under this Agreement or from claims of third parties against EWR arising from alleged acts or omissions of Issuer.

13. LAW, ARBITRATION AND JURISDICTION: This Agreement is governed by the provisions of Tennessee law except as to arbitration which is governed by the Federal Arbitration Act 9 U.S.C. Section 1 et seq. In the event of any dispute arising out of or in connection with this Agreement or the rights in or to the electronic warehouse receipts, the parties agree to submit to the jurisdiction of any state or federal court in Shelby County, Tennessee. The parties agree that all disputes arising out of this contract shall be resolved by final, binding arbitration conducted in Shelby County, Tennessee, conducted pursuant to the rules of the American arbitration Association. If necessary, in the arbitrator's judgment, the arbitrator(s) may employ counsel to assist him or her, and the reasonable cost of such counsel shall be included in the arbitrator's expenses. The decision of the arbitrator(s) shall be in writing and signed by the arbitrator(s) (or a majority thereof), and shall be final, and judgment upon the arbitrator's award may be entered in any court having jurisdiction thereof. The arbitrator's fees and expenses shall be advanced equally by the parties, but if one party refuses to advance its share of the arbitrator's fees and expenses, the other may do so. The arbitrator(s) may, in the decision, provide for reimbursement from one party to the other for legal fees, and for arbitration fees and expenses advanced.
14. CONFIDENTIALITY. EWR shall keep confidential, and shall not disclose to any third party, except as otherwise provided in the Tariff, all data and materials furnished by Issuer for processing hereunder, and EWR agrees that such information will not be used by EWR for any purposes other than the provision of processing services pursuant to the Agreement; provided, however, that such confidentiality provisions shall not apply to data disclosed (a) with permission of the Issuer, (b) to the USDA or its affiliated entities during customary audits or reporting, or (c) to then current Holders of the pertinent commodity, or (d) as otherwise required by law. EWR's obligation under this Section is limited to diligent compliance with the same methods and procedures that EWR uses to protect its own confidential information from disclosure.
15. The user and their employees are subject to the legal provisions of criminal and civil fraud statutes that apply to making a false certification or statement, illegal conversion or causing removal of agricultural products from

warehouse space, fraudulent adjustments or correction, and concealment of operational or financial condition and as such may be punishable by imprisonment, fines, and other penalties including but not limited to the following: 18 U.S.C. 286, 287, 371, 641, 651, 1001, and 1014; and 31 U.S.C. 3729.

16. At all times the provisions of the then current tariff will be a part of this contract.

17. No waiver of modification of the Agreement shall be valid and enforceable unless set forth in a written agreement signed by both parties. The failure of either party to enforce, at any time, or for any period of time, the provisions of this Agreement, should not be construed as a waiver of provisions hereof or of the right of such party hereafter to enforce each and every such provision.

Participant:

EWR, INC.:

Signature

President and CEO

Please Print Name

Title

Participant's Email Address

ISSUER'S LOCATION INFORMATION

ISSUER'S NAME:

FOR EACH LOCATION COVERED BY THIS AGREEMENT, PLEASE PROVIDE THE FOLLOWING INFORMATION:

Name of Warehouse if different from above:

Street Address: _____

Tel No: _____

Fax No: _____

Warehouse Code: _____
(6 digit code assigned by CCC)

Warehouse Licensing Authority (Federal, State,
Or No License) _____

Warehouse License Number _____

Contact Person: _____

Manager Contact: _____

Email address: _____

EWR, Inc.
Electronic Peanut Receipt
TARIFF

1. EWR will charge for use by the peanut industry of its such license and services the amount of \$0.23 per ton (based on the quantities stated in the transferred document) for each receipt created for the first 100,000 tons in each crop year (the crop year shall run from August 1 through July 31); \$0.22 per ton per transfer for the second 100,000 tons on electronic receipts created in the crop year; \$0.20 per ton per transfer for the third 100,000 tons on electronic receipts created in the crop year; and \$0.19 per ton per transfer for all additional tonnage on electronic receipts created in the crop year. Should EWR Inc. lower its peanut tariff below the rates mentioned in this paragraph, the user will automatically be given the lower rate schedule.
2. EWR may also charge reasonable charges for additional services and special reports requested by users, if any.
3. EWR will charge 2 cents per ton for every electronic receipt converted to paper.
4. By using the services of EWR, Inc. after the issuance of this tariff, user agrees that these tariff provisions become part of the Agreement between EWR, Inc. and user.
5. All electronic peanut receipts on the EWR system incorporate these terms: "Upon surrender of an electronic peanut receipt and payment of all liens due the warehouse operator, the peanuts represented by the peanut receipt will be deliverable to the order of the holder as defined in 7 CFR Part 869."
6. Paragraph 13 of the Participant Agreement is replaced by the following:

LAW, ARBITRATION AND JURISDICTION: *This Agreement is governed by the provisions of Tennessee law except as to arbitration which is governed by the Federal Arbitration Act 9 U.S.C. Section 1 et seq. In the*

event of any dispute arising out of or in connection with this Agreement or the rights in or to the electronic warehouse receipts, the parties agree to submit to the jurisdiction of any state or federal court in Shelby County, Tennessee. The parties agree that all disputes arising out of this contract shall be resolved by final, binding arbitration conducted in Shelby County, Tennessee, conducted pursuant to the rules of the American Arbitration Association. If necessary, in the arbitrator's judgment, the arbitrator(s) may employ counsel to assist him or her, and the reasonable cost of such counsel shall be included in the arbitrator's expenses. The decision of the arbitrator(s) shall be in writing and signed by the arbitrator(s) (or a majority thereof), and shall be final, and judgment upon the arbitrator's award may be entered in any court having jurisdiction thereof. The arbitrator's fees and expenses shall be advanced equally by the parties, but if one party refuses to advance its share of the arbitrator's fees and expenses, the other may do so. The arbitrator(s) may, in the decision, provide for reimbursement from one party to the other for legal fees, and for arbitration fees and expenses advanced.

7. Invoices are payable in 10 days. Late charges of 1.5% per month will be due on invoices not paid within 30 days of invoice date. The Provider may deny access to the CFS to any user who has not made payment to the Provider for fees which are more than 60 calendar days overdue for the first time in a twelve-month period. After this first past due payment incident, the Provider may deny service to the same user who has not made payment to the Provider for fees which are more than 30 calendar days past due. If the user has three instances of service denial due to nonpayment of fees in any twelve-month period, the Provider may require that customer to make a cash deposit with the Provider to prevent service denial and to go toward payment of future service fees. The amount of that deposit will be equal to the total of all past due invoices for that user as calculated by the Provider and will remain at that level. This requirement may stay in place until the user has gone twelve months without any payment issues, subject to discretion of the Provider.

8. If EWR Inc. agrees to accept payment by credit card from any customer then that customer will be responsible for paying to EWR Inc. all of the costs which EWR Inc. incurs as a result of accepting that card, including but not limited to costs associated with money conversion.

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