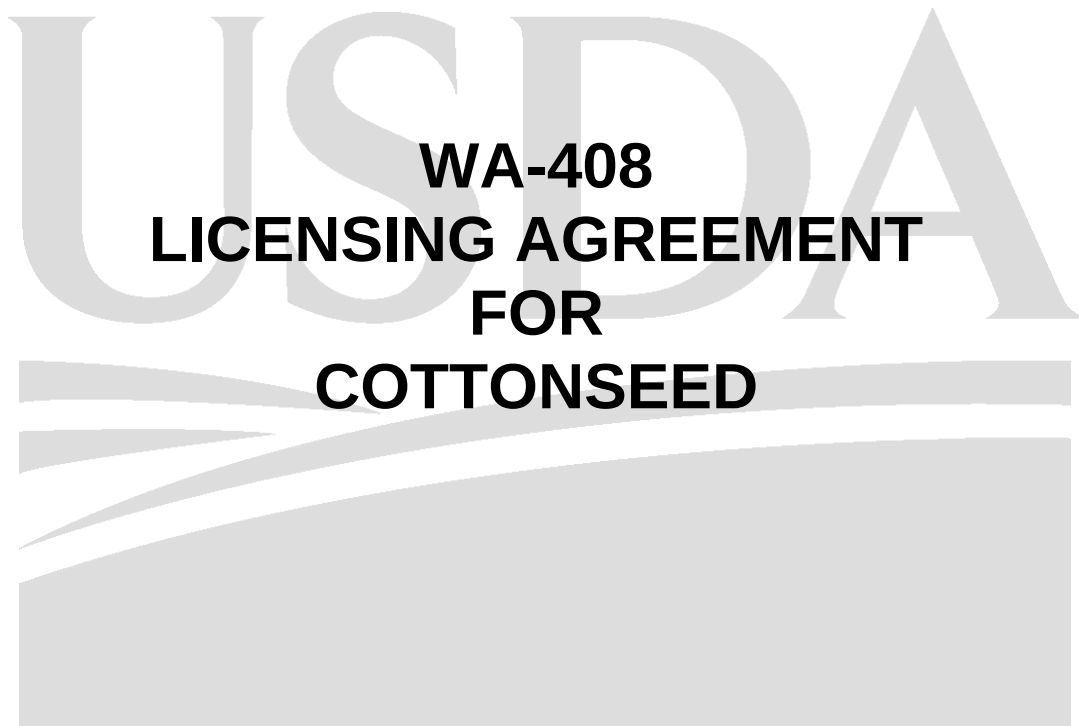


United States Department of Agriculture  
Farm Service Agency



**WA-408  
LICENSING AGREEMENT  
FOR  
COTTONSEED**

**WA-408**  
(10-31-11)

**U.S. DEPARTMENT OF AGRICULTURE**  
Farm Service Agency  
United States Warehouse Act

Form Approved OMB No. - 0560-0120

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## LICENSING AGREEMENT FOR COTTONSEED

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## Licensing Agreement for Cottonseed

As a condition of licensing under the United States Warehouse Act (the Act), administered by the Farm Service Agency (FSA), United States Department of Agriculture (USDA) the warehouse operator agrees to the conditions set forth in this agreement and the regulations found at 7 CFR Part 735:

### I. Definitions

**Bag.** A sack or other package.

**Bin.** A bin, tank, interstice, or other container in a warehouse in which bulk cottonseed may be stored.

**Cottonseed.** Prime cottonseed, cool, clean and not containing in excess of 1 percent foreign matter nor in excess of 10 percent moisture; sound and not containing in excess of 6 percent damaged or immature seed and is untreated by chemical process: Provided that the warehouse is equipped with such cooling and conditioning equipment as may be acceptable to the FSA, or if the cottonseed is in sack containing not more than 100 pounds to the sack and stored in a manner as the FSA may approve, the cottonseed may have a moisture content of not in excess of 12 percent.

**Current assets.** Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

**Current liabilities.** Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

**Dockage.** Dockage in cottonseed as defined by the official cottonseed standards of the United States.

**Licensed inspector and/or weigher.** A person licensed under the Act to sample, inspect, grade and/or weigh cottonseed and certificate the condition, grade or other class and/or weight of cottonseed stored at a warehouse licensed under the Act.

**Net Worth.** When liabilities are subtracted from allowable assets, it is the balance amount. In determining allowable assets, credit may be given for appraisal of real property less improvements and for the appraisal of insurable property such as buildings, machinery, equipment, and merchandise inventory only to the extent that such property is protected by insurance against loss or damage by fire, lightning, and other risk. Such insurance must be in the form of lawful insurance policies issued by insurance companies authorized to do such business and subject to service of process in the State in which the warehouse is located. The FSA will determine what assets are allowable and under what conditions appraisals may be used.

### II Financials

#### A. Financial Requirements

1. The warehouse operator agrees to have and maintain:
  - a. Total net worth of at least the amount obtained by multiplying \$5 per ton by the warehouse capacity in tons; however, no person may be licensed or remain licensed as a warehouse operator unless that person has allowable net worth of at least \$5,000.00 (Any deficiency in net worth above the \$5,000.00 minimum may be supplied by an increase in the amount of the financial assurance). The warehouse operator's net worth need not exceed \$100,000.00.
  - b. Total allowable current assets equal to or exceeding total current liabilities or evidence acceptable to FSA that funds will be and remain available to meet current obligations.

2. If a warehouse operator is licensed or is applying for licenses to operate two or more warehouses, the maximum capacity of all licensed warehouses, as determined by FSA, will be the capacity considered in determining whether the warehouse operator meets the net worth requirements.

#### B. Financial Reporting

1. The warehouse operator agrees to provide annually, within 90 calendar days of the fiscal year end, or more frequently if required, to FSA, financial statements from the warehouse operator's records prepared according to generally accepted accounting principles. The FSA may grant one 30 day calendar extension to provide a financial statement.
2. These financial statements must include but not be limited to:
  - a. Balance sheet,
  - b. Statement of income (profit and loss),
  - c. Statement of retained earnings, and
  - d. Statement of cash flows.
3. An authorized representative for the warehouse operator must certify under penalty of perjury that the statements, as prepared, accurately reflect the financial condition of the warehouse operator as of the date designated and fairly represent the results of operations for the period designated.
4. The warehouse operator must have the financial statements required audited or reviewed by a certified public accountant or an independent public accountant. Audits and reviews by independent certified public accountants and independent public accountants must be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountants certification, assurances, opinion, comments, and notes on this statement, must be furnished along with the financial statements. The FSA may also require an on-site examination and an audit by an authorized officer or agent of the USDA and request other pertinent information.

#### C. Accepting Other Financial Statements

1. Financial statements of a parent company which separately identify the financial position of the warehouse operator as a wholly owned subsidiary and which meet the basic requirements of financial statements, may be accepted by FSA in lieu of the warehouse operator meeting such requirements.
2. Guaranty agreements from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by FSA as meeting the basic requirements of financial statements if the parent company submits a financial statement which meets the financial requirements and financial reporting requirements.

#### D. Special Cases – Assets and Liabilities

1. Subject to such terms and conditions as FSA may prescribe and for the purposes of determining allowable assets and liabilities, appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by a warehouse operator to conform with the requirements may be allowed if:
  - a. Prepared by independent appraisers acceptable to FSA.
  - b. The assets are fully insured against casualty loss.
2. All cottonseed purchased from and remaining in-store at another warehouse must be fully paid for and a warehouse receipt issued in the name of the purchasing warehouse operator for such quantity and quality as the warehouse operators records or assets may state.

#### E. Financial Special Conditions - Public Debt Obligations

The warehouse operator agrees that if they file a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States:

1. The obligation deposited will **NOT** be considered a part of the warehouse operator's assets.
2. A deficiency in total allowable net worth as computed may be offset by the licensed warehouse operator furnishing acceptable financial assurance for the difference.
3. The deposit may be replaced or continued in the required amount from year to year.
4. The deposit will not be released until one year after cancellation or revocation of the license that it supports or until satisfaction of any claim against the deposit, whichever is later.

### III. Financial Assurance

#### A. Financial Assurance Requirements – Computation

The warehouse operator agrees:

1. To furnish financial assurance computed at the rate of \$5.00 per ton of storage space that the warehouse accommodates when stored in the manner customary to the warehouse as determined by FSA, but not less than \$5,000.00 nor more than \$50,000.00.
2. When applying for licenses to operate two or more warehouses in the same State, or multiple states, and at the warehouse operator's election, they may provide financial assurance meeting the requirements of the Act and the regulations to cover all these warehouses within the multiple states and the maximum of \$50,000.00 of financial assurance will apply for each State covered.
3. In case of a deficiency in net worth above the \$5,000.00 minimum required, to add to the amount of financial assurance determined in accordance with paragraph (1) of this section an amount equal to that deficiency. If a letter of credit is used for the amount of the deficiency, it must be issued for a period of not less than two years to coincide with the period of any deposit of obligations. Any letter of credit must be clean, irrevocable, issued by a commercial bank payable to DACO by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation or an institution in good standing regulated by the Farm Credit Administration. The deposit will not be considered an asset of the company.
4. If the FSA finds that conditions exist which warrant requiring additional financial assurance, to add to the amount of financial assurance a further amount to meet such conditions.

#### B. Financial Assurance – Acceptable Forms

The warehouse operator may offer as financial assurance any of the following:

1. A warehouse operator's bond, or
2. In the form of a deposit with the FSA, United States bonds, United States Treasury notes, or other public debt obligations of the United States or obligations that are unconditionally guaranteed as to both interest and principal by the United States, or
3. In the form of a letter of credit issued to DACO for a period of not less than two years to coincide with the period of any deposit of obligations, or

4. In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by FSA, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouse operator under the terms of the Act and regulations, or
5. Other forms of financial assurance as may be prescribed in the applicable licensing agreement and related addenda deemed acceptable by FSA.

#### **IV. Duties of Warehouse Operator**

##### **A. General**

The warehouse operator agrees to:

1. At all times exercise such care in regard to cottonseed in custody as a reasonably careful owner would exercise under the same circumstances and conditions.
2. To not differentiate among depositors regarding use of and access to services, except that available storage space may be allocated.
3. Accept all storage cottonseed and, at the request of the depositor, deliver out all storage cottonseed, other than specially-binned cottonseed, in accordance with the grades of that cottonseed as determined by a person duly licensed to inspect that cottonseed and to certificate the grade and the weight of that cottonseed under the Act and the regulations; or
4. If an appeal from the determination of an inspector has been taken, that cottonseed will be accepted for and delivered out of storage in accordance with the grades as finally determined in the appeal.
5. Agree with the depositor on an amount to be allowed for shrinkage at the time of delivery of the cottonseed. In no case may the amount exceed 5 percent of the weight of the cottonseed. If no agreement is made, the moisture content at the beginning of storage and at the time of delivery will be the basis for calculating shrinkage.
6. Keep the warehouse reasonably clean at all times and free from detritus, rubbish, or accumulations of materials that will create a hazard or interfere with the handling of cottonseed and provide a safe environment in and around the warehouse and will provide all necessary assistance in the execution of inspections and examinations by representatives of FSA.
7. Maintain sufficient inventory of cottonseed in licensed storage with respect to quality and quantity as evidenced by the outstanding storage obligations (warehouse receipted and not warehouse receipted) and, in case the grades of stored cottonseed should get out of balance with grades represented by outstanding storage obligations, to effect the necessary corrective actions to regain the quality and quantity equity.

##### **B. Insurance**

###### **1. Requirements**

The warehouse operator agrees to:

- a. Secure, in their own name, insurance on stored cottonseed against loss or damage by fire, lightning, and other risk under forms of policies which automatically attach for the full replacement value of stored cottonseed, as soon as such cottonseed is placed in their legal custody, and continue such insurance in effect so long as the cottonseed remains in their legal custody. The warehouse operator also agrees to keep a general insurance account showing the policy number, issuing company, amount binding, and expiration dates of all insurance policies and in each

instance show the property covered by such policies. This insurance will be lawful policies issued by one or more insurance companies. The warehouse operator must submit such reports to underwriters as may be required under the terms of such policies, and submit copies of such reports to FSA as required.

- b. Show, in the tariff to be posted at all delivery points, the conditions under which the cottonseed will be insured against loss or damage by fire, lightning, and other risk.
- c. Require that the warehouse operator's insurance company give 30 calendar days advance notice to FSA of intent to cancel the stock (inventory) coverage.

#### C. Records to be Kept in a Safe Place

The warehouse operator agrees to:

1. Provide a fireproof safe, a fireproof vault, or a fireproof compartment in which to keep, when not in use, all records, books, and papers pertaining to the licensed warehouse, including a current warehouse receipt book, copies of warehouse receipts issued, and canceled warehouse receipts or microfilm copies of canceled receipts, except that, with the written consent of FSA, upon a showing by the warehouse operator that it is not practicable to provide such fireproof safe, vault, or compartment, may keep such records, books, and papers in some other place of safety, approved by FSA.
2. Retain each canceled receipt for a period of six years after December 31 of the year in which the warehouse receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by FSA in particular cases to carry out the purposes of the Act.
3. Arrange canceled warehouse receipts in numerical order and otherwise in such manner as may be directed, for purposes of audit, by authorized officers or agents of the USDA and FSA.

#### D. Scales and Bin Numbers

The warehouse operator agrees to:

1. Be equipped with suitable scales in good order, and so arranged that all cottonseed, whether for storage or for non-storage purposes, can be weighed in and out of the warehouse. The scales in any warehouse must be subject to examination by authorized officers or agents of the USDA and to disapproval by FSA. If disapproved, any weighing apparatus must not thereafter be used in ascertaining the weight of cottonseed for the purposes of the Act, until such disapproval is withdrawn.
2. Cause both bulk cottonseed bins and compartments for sacked cottonseed of all warehouses licensed under the Act to be identified by means of clearly discernible numbers securely affixed. The series of numbers to be used must be approved by FSA. Bulk cottonseed bins must be numbered so as to be easily identified at the openings on top and also on or near the outlet valves underneath. Compartments must be numbered in such a manner as clearly showing the space covered by each number.
3. Immediately attach tags to bags of cottonseed showing lot number, identification mark on the bag, the number of the receipt issued the number of sacks in the lot, the grade and the gross weight of the cottonseed as it entered storage. The tags must be visible and readily accessible enabling an accurate count.
4. Apply for licensing at all facilities controlled by them at a specific location, among which cottonseed may be transferred without weighing, unless those facilities are specifically exempted by FSA. The warehouse operator must not select, randomly, the bins to be licensed unless specifically exempted by FSA.



#### E. Warehouse Charges

The warehouse operator must:

1. Not make any unreasonable or exorbitant charge for services rendered.
2. Before a license to conduct a warehouse is granted under the Act, file, with FSA, a copy of their rules and a schedule of charges to be assessed depositors.
3. Before making any change in such rules or schedule of charges, file with FSA a new rule statement or schedule of charges.
4. Post conspicuously where the depositor may access it at all delivery points, a copy of the current rules and schedule of charges.

#### F. Business Hours

The warehouse operator agrees to:

1. Be open for the purpose of receiving cottonseed for storage and delivering cottonseed out of storage and for settlement purposes every normal business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m. The warehouse operator must post their business hours at the public entrance to the office and to their licensed warehouse.
2. In case the warehouse is not to be kept open as required, state, in the posted notice, the period during which the warehouse is to be closed and the name, the address, and telephone number of the person who will be authorized to receive and deliver cottonseed stored in the warehouse.

#### G. System of Accounts

The warehouse operator agrees to:

1. Have and maintain a system of accounts approved for the purpose by FSA. This system of accounts must include an accurate and concise daily position record showing, as activity occurs, the total weight of cottonseed in licensed space:
  - a. Total cottonseed unloaded into the warehouse,
  - b. Total cottonseed loaded out of the warehouse,
  - c. Total cottonseed adjustments,
  - d. Total cottonseed remaining in the warehouse at the close of each business day,
  - e. Total obligations transferred to another warehouse,
  - f. Total negotiable and non-negotiable warehouse receipts issued, canceled, and balance outstanding,
  - g. Total increase, decrease, and outstanding un-receipted obligations belonging to others including cottonseed bank,
  - h. Total cottonseed owned by the warehouse operator for which warehouse receipts have not been issued, and
  - i. Total cottonseed obligations.
2. Maintain a separate set of records for each depositor showing for each bag or lot of cottonseed, the name of the depositor, the weight of the cottonseed, the number of bags in each lot, the grade, the location, the dates received and delivered out of storage, the receipts issued and canceled which must include a detailed record of all money received and disbursed and, if applicable, all insurance policies taken out and canceled on request of each depositor. These records will be maintained accurately and concisely as activity occurs. The warehouse operator must retain these records for a period of six years after December 31 of the year in which they were created, and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by FSA in particular cases to carry out the purposes of the Act.

3. Maintain similar records and information for any non-storage cottonseed handled through the warehouse. Records required with respect to non-storage cottonseed must be retained, as a part of the records of the warehouse, for a period of one year after December 31 of the year in which the lot of non-storage cottonseed is delivered from the warehouse.
4. Maintain a record of the temperature of stored cottonseed for each bin.

#### H. Excess Storage and Transferring Cottonseed

The warehouse operator agrees that:

1. If at any time cottonseed stored in the warehouse exceeds the capacity for which the warehouse is licensed, the warehouse operator will immediately notify FSA of the fact and the location of excess storage.
2. If they desire to transfer stored cottonseed to another warehouse (receiving), the warehouse operator may do so either by physical movement of the stored cottonseed or by other methods accepted as standard industry practice subject to the following terms and conditions:
  - a. The transferring (shipping) warehouse operators accepted rules or schedule of charges must contain notice that the warehouse operator may transfer cottonseed according to conditions prescribed by FSA.
  - b. The warehouse operator must request permission in writing to FSA.
  - c. For purposes of transferring cottonseed, a receiving warehouse means a warehouse operated by a warehouse operator who holds an un-suspended, un-revoked cottonseed license under the Act, or a warehouse operated by a warehouse operator who holds an effective warehouse license for the public storage of cottonseed issued by a State that has financial, bonding and examination requirements for the benefit of all.
  - d. Non-negotiable warehouse receipts must be obtained promptly by the shipping warehouse operator from the receiving warehouse operator for all warehouse receipted or open storage transferred cottonseed. Such warehouse receipts must have printed or stamped in large bold or outline letters diagonally across the face and covering the face from corner to corner the words "NOT NEGOTIABLE". In the case of cottonseed shipped to a warehouse in a State that doesn't allow issuance of non-negotiable warehouse receipts, the receiving warehouse operator will issue an affidavit specifying the kind, class, grade and quantity of the cottonseed received from the shipping warehouse operator. These receipts and affidavits are not valid for collateral purposes. They must be retained by the shipping warehouse operator to be presented to and used by authorized officers and agents of the USDA, and FSA in lieu of an on-site inventory. The cottonseed covered by these warehouse receipts and affidavits is not the property of either the receiving or shipping warehouse operator but held in trust by both solely for the benefit of the depositors whose bailed cottonseed was transferred individually or collectively and which the depositor or the depositors transferee retains title.
  - e. The shipping warehouse operator's financial assurance amount must be increased to consider the addition of the transferred cottonseed to the licensed capacity of the warehouse with the net worth requirements based on the total of the licensed capacity and the transferred cottonseed. The receiving warehouse operator must not incur storage obligations that exceed the licensed or approved capacity of their warehouse.
  - f. The shipping warehouse operator retains storage obligation to the owners of all cottonseed deposited in the warehouse for storage, whether transferred or retained, and is, except as otherwise agreed upon under paragraph (g), required to redeliver the cottonseed upon demand to the depositor or the depositors transferee at the warehouse where the cottonseed was first deposited for storage.
  - g. The owner of cottonseed deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the cottonseed was first deposited for storage, unless the owner of the cottonseed, with the consent of both the shipping warehouse operator and the receiving warehouse operator, elects to take delivery at the warehouse to which cottonseed was transferred.

- h. Nothing in this agreement will in any way diminish the right of the owner of the cottonseed to receive on delivery, or the obligation of the warehouse operator of a licensed warehouse from which the product is transferred, to deliver to the owner, cottonseed in the quantity, and of the kind, quality, class and grade, called for by the warehouse receipts or other evidence of storage.
- i. Recording and retention of non-negotiable warehouse receipts received as a result of transferring cottonseed under this section will be subject to the requirements for warehouse receipts.
- j. A receiving warehouse operator must not transfer or offset to another warehouse, in any manner, their obligation to the shipping warehouse operator.

#### I. Reports Required

The warehouse operator agrees to:

1. When requested by FSA, make such reports, on forms prescribed and furnished for the purpose by FSA, concerning the condition, contents, operation, and business of the warehouse.
2. Keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted.

#### J. Inspections, Examinations of Warehouse

The warehouse operator agrees to permit any officer or agent of the USDA, authorized by FSA, to enter and inspect or examine on any business day during the usual hours of business, any warehouse for which they hold a license, the office, the books, records, papers, and accounts relating, and the contents thereof and will furnish that officer or agent the assistance necessary to enable making any inspection or examination.

#### K. Loading Out Without Weighing

The warehouse operator may:

1. Load out identity-preserved cottonseed without weighing for which the owner has agreed to assume all shortages, provided that the warehouse receipts covering this cottonseed have been surrendered to the warehouse operator.
2. At the request of the owner, load out fungible cottonseed without weighing. Destination weights are to be obtained and posted as soon as possible. Any interim weight certificate issued by the shipping warehouse operator must clearly show the weight as an estimate.

#### L. Storage of Identity Preserved Cottonseed

1. The warehouse operator may elect **not** to accept and store identity preserved cottonseed.
2. If electing to accept and store bulk identity-preserved cottonseed, the warehouse operator agrees to:
  - a. Clearly mark with identification each bag or container.
  - b. Maintain records that clearly show the location of all identity-preserved cottonseed stored in the warehouse.

#### M. Containerized Cottonseed Storage

The warehouse operator agrees to keep containerized cottonseed stored in an orderly manner so as to permit easy access to all lots and to facilitate inspecting, sampling, counting and identification of each lot.

#### N. Delivery of Fungible Cottonseed

The warehouse operator must:

1. Upon proper presentation of a warehouse receipt for any cottonseed, other than identity-preserved cottonseed, and, if requested by the warehouse operator, payment of all accrued charges associated with the storage of the cottonseed, deliver to the depositor or lawful holder of the warehouse receipt cottonseed of the grade and quantity named in that warehouse receipt; or
2. Upon proper presentation of a warehouse receipt for any identity-preserved cottonseed and, if requested by the warehouse operator, payment of all accrued charges associated with the storage of the cottonseed, deliver to the person lawfully entitled thereto, the identical cottonseed stored in the warehouse.

#### O. Storage Obligations

The warehouse operator, while authorized to commingle cottonseed in store, is liable to each depositor for the care and delivery of cottonseed stored as if the cottonseed were separately stored. The warehouse operator is free to store in any manner that results in their ability to produce cottonseed, as a bailee for hire, that meets or exceeds the quantity and quality specifications of the warehouse receipt or the original delivery receipt (scale ticket).

#### P. Out of Condition and Damaged Cottonseed

The warehouse operator may refuse to accept cottonseed offered for storage if its condition is such that it will affect the condition of existing cottonseed in the warehouse unless the warehouse operator chooses to separately bin and condition the cottonseed.

#### Q. Reconditioning Cottonseed

The warehouse operator agrees to:

1. Immediately notify the owners and FSA when cottonseed is going out of condition and where the warehouse operator is unable to condition the cottonseed and stop the deterioration.
2. Follow instructions received.

#### R. Warehouse Receipts

1. The warehouse operator when choosing the option to issue Electronic Warehouse Receipts (EWRs) instead of paper warehouse receipts for the agricultural product(s) stored in their warehouse agrees to:
  - a. Only issue EWRs through a provider whom FSA has approved.
  - b. Receive written authorization from FSA at least 30 calendar days before changing providers. Upon authorization a warehouse operator may request their current provider to transfer their EWR data from its Central Filing System (CFS) to the CFS of the approved provider whom they select. Warehouse operators must notify all holders of EWRs by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by the Agency. Warehouse operators may only change providers once a year.
  - c. Cancel EWRs only when they are the holder of the receipt(s).
  - d. Correct information on the EWR only with written notification to the provider.
  - e. Before issuing EWRs, request and receive from FSA a range of consecutive warehouse receipt numbers which the warehouse operator will use consecutively for issuing their EWRs.
  - f. Issue warehouse receipts initially as EWRs.

- g. Allows a holder the option to authorize any other user of a provider to act on their behalf with respect to their activities with their provider. This authorization must be in writing, acknowledged, and retained by the provider.
  - h. Provisions of §735.300(c) will be applicable to lost or destroyed EWRs.
  - i. Only the current EWR holder may request a paper warehouse receipt in lieu of a EWR with respect to an agricultural product.
2. The warehouse operator will ensure that an issued EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt, and possess the following attributes that:
- a. The person identified as the holder of a EWR will be entitled to the same rights and privileges as the holder of a paper warehouse receipt.
  - b. Only the current holder of the EWR may transfer the EWR to a new holder.
  - c. The identity of the holder must be included as additional information for every EWR.
  - d. An EWR will only designate one entity as a holder at any one time.
  - e. An EWR will not be issued for a specific identity preserved or a commingled agricultural product lot if another receipt, whether paper or electronic, representing the same specific identity preserved or commingled lot of agricultural product is outstanding. No two warehouse receipts issued by a warehouse operator may have the same receipt number or represent the same agricultural product lot.
  - f. An EWR may only be issued to replace a paper receipt if requested by the current holder of the paper warehouse receipt.
  - g. Allows a holder the option to authorize any other user of a provider to act on their behalf with respect to their activities with their provider. This authorization must be in writing, acknowledged, and retained by the provider.
  - h. Provisions of §735.300(c) will be applicable to lost or destroyed EWRs.
  - i. Only the current EWR holder may request a paper warehouse receipt in lieu of a EWR with respect to an agricultural product.

## V. Paper Warehouse Receipts

### A. Issuance

The warehouse operator agrees to:

1. Issue warehouse receipts for any cottonseed stored in a warehouse at the request of a depositor.
2. Prior to issuing any warehouse receipt under the Act, obtain a copy of the original weight certificate, original inspection certificate or original inspection and weight certificate representing the cottonseed. The warehouse operator's records must identify the certificate(s) used as the basis for issuing the receipt and retained for a period of three years after December 31 of the year in which issued. Certificates filed in the office of an independent inspection or weighing agency or with a U. S. Registrar meet this requirement.

### B. Form

1. Every warehouse receipt, whether negotiable or non-negotiable, issued for cottonseed stored in a licensed warehouse must, in addition to complying with the requirements of section 11 of the Act, embody within its written or printed terms the following:
  - a. The name of the warehouse operator and the designation, if any, of the warehouse.
  - b. The warehouse operator's license number.
  - c. The Commodity Credit Corporation contract number, if applicable.
  - d. A statement whether the warehouse operator is incorporated or unincorporated, and if incorporated, under what laws.

- e. In the event the relationship existing between the warehouse operator and any depositor is not that of a strictly disinterested custodianship, a statement setting forth the actual relationship.
  - f. A statement conspicuously placed, whether or not the cottonseed is insured, and, if insured, to what extent, by the warehouse operator against loss by fire, lightning, or other risk.
  - g. The tag number of the bag or lot of cottonseed.
  - h. A blank space for recording the condition of the cottonseed.
  - i. The moisture content.
  - j. The bin or compartment number in which stored.
  - k. The net weight, including dockage, if any, of the cottonseed.
  - l. The words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon.
  - m. A statement indicating the amount of shrinkage agreed upon between the warehouse operator and the depositor.
2. Every negotiable warehouse receipt issued must, in addition to conforming with the requirements of paragraph (a), embody within its written or printed terms, a form of endorsement which may be used by the depositor, or their authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the cottonseed covered by the receipt.
  3. The grade stated in a warehouse receipt must be stated as determined by the inspector who last inspected and graded the cottonseed or, if an appeal has been taken, the grade will be stated on such receipt in accordance with the grade as finally determined in such appeal.
  4. If the warehouse operator issues a warehouse receipt omitting the statement of grade on request of the depositor, such receipt will have clearly and conspicuously stamped or written in the space provided for the statement of grade the words "Not graded on request of depositor."
  5. If the warehouse operator issues a warehouse receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line will be drawn through such space to show that such omission has been made purposely.

#### C. Persons Authorized to Sign Warehouse Receipts

The warehouse operator must file with FSA, the name and genuine signature of each person authorized to sign warehouse receipts for the warehouse operator, promptly notify FSA of any changes as to persons authorized to sign, file the signatures of such persons, and will be bound by such signatures the same as if the warehouse operator had personally signed the receipt.

#### D. Copies of Warehouse Receipts

The warehouse operator agrees that at least one copy of all warehouse receipts must be made and, except skeleton and microfilm copies, have clearly and conspicuously printed or stamped on the face the words "Copy – Not Negotiable".

#### E. Printing of Warehouse Receipts

The warehouse operator agrees to issue only warehouse receipts that:

1. Are in a form prescribed by FSA.
2. Are on distinctive paper or card stock specified by FSA.
3. Printed by a printer with whom FSA has an agreement and bond for such printing; and
4. On paper and/or card stock tinted with ink in the manner prescribed by the agreement.

#### F. Return of Warehouse Receipts Prior to Delivery

The warehouse operator agrees to:

1. Not deliver any cottonseed for which they have issued a negotiable receipt until the receipt has been returned and canceled.
2. Not deliver cottonseed for which they have issued a non-negotiable receipt until such receipt has been returned, or they have obtained from the holder or agent, a written order and a receipt upon delivery of 90% (ninety percent) of the quantity.

#### G. Balance Warehouse Receipts

The warehouse operator, upon request of the holder, may issue a warehouse receipt for previously warehouse receipted cottonseed, the receipt for which has been canceled. The balance warehouse receipt must show the number and issuance date of the original warehouse receipt.

#### H. Lost or Destroyed Warehouse Receipts

1. The warehouse operator may issue a new warehouse receipt subject to the same terms and conditions, and bearing on its face the number and the date of the original receipt when presented with the case of a lost or destroyed warehouse receipt.
2. Before issuing a replacement warehouse receipt, the warehouse operator must require the holder or other person applying therefor to make and file with the warehouse operator:
  - a. An affidavit showing that the holder is lawfully entitled to the possession of the original warehouse receipt; that the holder has not negotiated or assigned it; how the original receipt was lost or destroyed; and, if lost, that diligent effort has been made to find the warehouse receipt without success.
  - b. A bond in an amount double the value, at the time the bond is given, of the agricultural product represented by the lost or destroyed warehouse receipt. This bond will be in a form approved for the purpose by FSA, and will be conditioned to indemnify the warehouse operator against any loss sustained by reason of the issuance of this warehouse receipt. The bond will have as surety a surety company which is authorized to do business, and is subject to administration of process in a suit on the bond, in the State in which the warehouse is located, unless a variance is granted by FSA.
3. Auditing Canceled Warehouse Receipts

The warehouse operator agrees to forward canceled receipts for auditing, as requested, to FSA.

### VI. Service Licenses

#### A. The Applicant:

1. Must make application for license to inspect and/or weigh cottonseed to FSA on forms furnished by FSA. Each application must:
  - a. Be signed by the applicant.
  - b. Contain or be accompanied by a statement from the warehouse that the applicant is acceptable to such warehouse operator.
  - c. If seeking inspection licensing, certification that the applicant can correctly inspect cottonseed in accordance with the official standards of the United States, or in the absence of such standards, in accordance with any standards approved by FSA.
  - d. If seeking weighing licensing, certification that the applicant can correctly weigh cottonseed.

- e. Furnish such additional information as requested by FSA.

#### B. Examination of Applicant

As a service license applicant, submit to an examination or test to show ability to properly inspect, grade and/or weigh cottonseed, as the case may be, and also make available for inspection copies of the standards of inspection and grading and the weighing apparatus as the case may be, used or to be used.

#### C. Inspection Certificate

1. Each inspection certificate issued under the Act by an inspector must be in a form approved by the FSA, and include the following information within its terms:
  - a. The caption "United States Warehouse Act, Cottonseed Inspection Certificate".
  - b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable.
  - c. The name and location of the warehouse in which the cottonseed is or is to be stored.
  - d. A statement showing whether the inspection covers cottonseed moving into or out of the warehouse.
  - e. The date of the certificate.
  - f. The consecutive number of the certificate.
  - g. The location of the cottonseed.
  - h. The condition of the cottonseed.
  - i. The identification number of the bag or lot.
  - j. The approximate quantity of cottonseed covered by the certificate.
  - k. A blank line for recording general remarks upon the condition of the cottonseed.
  - l. A statement that the certificate is issued by an inspector licensed under the Act and the regulations thereunder.
  - m. The signature of the inspector who inspected the cottonseed.
2. In addition to the provisions of paragraph 1, the inspection certificate may include any other matter consistent with the Act or the regulations, provided the authorization of FSA is first secured.
3. In lieu of an inspection certificate in the form prescribed in paragraph one, an official inspection certificate issued under the Agricultural Marketing Act of 1946 on cottonseed which is stored or to be stored in a warehouse licensed under the Act will be acceptable for purposes of the Act and the regulations.

#### D. Grade Certificates

1. Each grade certificate issued under the Act by an inspector must be in a form approved for the purpose by FSA, and include the following information within its terms:
  - a. The caption "United States Warehouse Act, Cottonseed Grade Certificate".
  - b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable.
  - c. The name and location of the warehouse in which the cottonseed is or is to be stored.
  - d. A statement showing whether the inspection covers cottonseed moving into or out of the warehouse.
  - e. The date of the certificate.
  - f. The consecutive number of the certificate.
  - g. The location of the cottonseed.
  - h. The identification number of the bag or lot.
  - i. The grade or other class of each bag or lot of the cottonseed, as determined by such duly licensed inspector, in accordance with applicable standards.
  - j. The approximate amount of cottonseed covered by the certificate.
  - k. A statement that the certificate is issued by an grader licensed under the Act and the regulations thereunder.



- l. The signature of the licensed grader who graded the cottonseed.
- E. Weight Certificates
1. Each weight certificate issued under the Act by an inspector must be in a form approved for the purpose by FSA, and include the following information within its terms:
    - a. The caption "United States Warehouse Act, Cottonseed Weight Certificate".
    - b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable.
    - c. The name and location of the warehouse in which the cottonseed is or is to be stored.
    - d. The date of the certificate.
    - e. The consecutive number of the certificate.
    - f. The identification number of the lot or bag.
    - g. The location of the cottonseed at the time of weighing.
    - h. The gross weight of the cottonseed.
    - i. A statement that the certificate is issued by a weigher licensed under the United States Warehouse Act and the regulations thereunder.
    - j. The signature of the licensed weigher.
  2. In addition to the provisions of paragraph 1, the weight certificate may include any other matter consistent with the Act or the regulations in this part provided the authorization of FSA is first secured.
- F. Condition, Grade and Weight Certificate

The condition, grade and weight of any cottonseed, ascertained by an inspector and a weigher, may be stated on a certificate meeting the combined requirements of subsections C, D and E provided the form of the certificate is approved for the purpose by FSA.

G. Duties of Inspector and Weigher

Each inspector and weigher whose license remains in effect must:

1. When given cottonseed to inspect, grade and/or weigh under conditions which permit proper inspection and weighing, without discrimination, as soon as practicable and upon reasonable terms, perform the requested services for which licensed.
2. Issue a certificate of grade for any cottonseed only if the inspection and grading thereof is based upon a correct and representative sample of the cottonseed.
3. As soon as possible after grading any cottonseed and not later than the close of business on the next following business day, make accessible to the parties interested in a transaction in which the cottonseed is involved at the location of the license, a copy of the inspection certificate issued by the licensed inspector.
4. Keep the license to inspect, grade and/or weigh conspicuously posted at the place where those duties are performed or as directed by FSA.
5. Permit any authorized officer or agent of the USDA or FSA or their designee to inspect or examine, on any business day during the usual hours of business, their books, papers, records, and accounts relating to the performance of their duties under the Act and, with the consent of the warehouse operator concerned, assist any such officer or agent in the inspection or examination as far as it relates to the performance of the duties of such inspector or weigher under the Act.
6. Keep for a period of one year, in a place accessible to interested parties, a copy of each certificate issued and file the certificate with the warehouse in which the cottonseed covered by the certificates is stored.

## VII. Cottonseed Grading Standards

Until such time as official cottonseed grades of the United States are in effect, the grade and condition of cottonseed shall be stated as far as applicable:

- A. In accordance with the State standards, if any, established in the State in which the warehouse is located.
- B. In the absence of any State standards, in accordance with the standards, if any, adopted by any cottonseed organization or by the cottonseed trade generally in the locality in which the warehouse is located subject to the disapproval of FSA.
- C. In the absence of the aforesaid standards in accordance with any standards approved by FSA.

## VIII. Cottonseed Arbitration

### A. Procedure

In case a question arises as to whether the condition, grade, or shrinkage of the cottonseed was correctly stated in a receipt, or grade certificate issued under the act and the regulations in this part (Except when agreements have been made in accordance with the United States Arbitration Act (43 Stat. 883; 9 U.S.C. 1-14)), the licensed warehouse operator or the lawful holder of the receipt or certificate concerned, after reasonable notice to the other interested party, may submit the question to an arbitration committee for determination in accordance with this section.

### B. Formation of an Arbitration Committee

- 1. The arbitration committee shall be composed of three or more disinterested persons who are competent to pass upon the questions involved.
- 2. If there is a local trade organization such as a board of trade, chamber of commerce, exchange, or inspection department which provides such a committee under a rule or practice acceptable to FSA for the purpose, such as committee may determine the question.
- 3. In the absence of such committee, or if for any good reason not inconsistent with the act and the regulations, such committee is not acceptable to either of the parties interested, the complainant and the other party shall each name a member, and the two members so named shall select a third member, who shall constitute the arbitration committee. Each member of any such committee shall at all times be subject, for good cause to the disapproval of FSA, and in case any member is so disapproved shall not thereafter act on an arbitration committee which is considering any questions relating to the same lot of cottonseed unless such disapproval is withdrawn.

### C. Interested Parties – Duties

It is the duty of the interested parties to acquaint the arbitration committee with the exact nature of the question to be determined and all the necessary facts and to permit the committee to examine the receipt, certificate, or cottonseed involved or any papers or records needed for the determination of the question.

### D. Arbitration Committee – Duties

- 1. The committee shall make a written finding setting forth the question involved, the necessary facts, and its determination. Such findings or a true copy thereof shall be filed as a part of the records of the licensed warehouse operator involved.

- 2. It may dismiss the matter without determination upon the request of the complainant, or for noncompliance by the complainant with the law or the regulations in this part, or because it is without sufficient evidence to determine the question, in which case the decision shall be deemed to be against the complainant.
- 3. Except as otherwise provided by law, its decision shall be final for the purposes of the act and the regulations in this part, unless DACO shall direct a review of the question. Any necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the committee shall decide that such expense shall be prorated between the parties.
- 4. If the decision of the arbitration committee by that the grade, condition, or shrinkage was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it, and he shall substitute therefor one conforming to the decision of the committee.

E. Owner Not Compelled to Store Cottonseed

Nothing in this agreement will require the owner or agent to store such cottonseed with the warehouse operator after the appeal inspection, but if the cottonseed is stored it will be accepted for and delivered out of storage in accordance with the grade as finally determined in such appeal.

**IX. Fees**

The Office of the Secretary [delegated to the Deputy Administrator for Commodity Operations] is authorized, by the enabling legislation, to collect fees to cover the administration of the activity. The rates of fees are set by DACO. All fees collected under this agreement will be credited to the account that incurs the costs of administering the activity and are available without further appropriation and without regard to fiscal year concerns. A schedule showing the current fees or any annual fee changes will be provided as an addendum to the licensing agreement. The fees for cottonseed warehouses are detailed in the attached addendum.

**This agreement forms a part of the license, number \_\_\_\_\_ for**  
*(License Number)*

\_\_\_\_\_ **at**  
*(Warehouse Operator)*

\_\_\_\_\_ **and is effective** \_\_\_\_\_ .  
Licensed Location Date

\_\_\_\_\_  
Warehouse Operator

\_\_\_\_\_  
By

\_\_\_\_\_  
Date

\_\_\_\_\_  
Farm Service Agency

**NOTE** : The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 735, 7 CFR Part 1427, the United States Warehouse Act (Pub. L. 106-472), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.). The information will be used to document cottonseed warehouse operator agreement to abide by the terms and conditions set forth in the Licensing Agreement for Cottonseed. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated) and USDA/FSA-3, Consultants File. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility to obtain new licensing or retain existing licensing under the United States Warehouse Act.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0120. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. **RETURN THIS COMPLETED FORM TO THE KANSAS CITY COMMODITY OFFICE, WAREHOUSE LICENSE AND EXAMINATION DIVISION, STOP 9148, P.O. BOX 419205, KANSAS CITY, MO 64141-6205.**

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