



Australian Government

Australian Quarantine and Inspection Service

AGREEMENT dated (INSERT DATE)

BETWEEN ('the Client')

AND **COMMONWEALTH OF AUSTRALIA** ('Commonwealth') for the purposes of this Agreement represented by and acting through the Australian Quarantine and Inspection Service (**AQIS**) within the Australian Government Department of Agriculture, Fisheries and Forestry.

RECITALS

- A. The Client has requested AQIS to provide the Services to enable offshore processing of their product, in the knowledge that such inspection does not guarantee entry of their product into Australia.
- B. AQIS has agreed to provide the Services on the terms and conditions of this agreement.
- C. The parties acknowledge that nothing in this agreement is done pursuant to the *Quarantine Act 1908*, and that all relevant provisions of that Act apply to the product.

TABLE OF CONTENTS

1.	INTERPRETATION	1
2.	TERM.....	1
3.	PERFORMANCE OF SERVICES.....	2
4.	FEEES AND ALLOWANCES	3
5.	THE CLIENT'S OBLIGATIONS.....	3
6.	CONFIDENTIAL INFORMATION.....	4
7.	SUBCONTRACTING	5
8.	NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY.....	5
9.	TERMINATION BY A PARTY	5
10.	AFTER TERMINATION.....	6
11.	NOTICE.....	7
12.	ENTIRE AGREEMENT.....	7
13.	ALTERATION	7
14.	COSTS	8
15.	JOINT AND SEVERAL LIABILITY	8
16.	GOVERNING LAW	8
17.	SCHEDULE 1 – OFFSHORE INSPECTION DETAILS	9
18.	SCHEDULE 2 – SERVICE PROVISION AND CHARGES	10

1. INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

'**Agreement**' includes any schedules and annexures;

'**AQIS**' includes the officers, employees, agents and subcontractors of AQIS;

'**Commencement Date**' means the date specified in **Item 1 of Schedule 1**;

'**Contract Material**' means all Material created for the purposes of this Agreement or provided to the Client as part of the Services;

'**Electronic Communication**' has the same meaning as in the *Electronic Transactions Act 1999* (Cth);

'**Fee**' means the fee specified in **Item 4 of Schedule 1**;

'**Project Officer**' means the person specified in **Item 5 of Schedule 1**;

'**Product**' means the product to be imported into Australia by the Client the subject of the Services;

'**Services**' means the services to be undertaken by AQIS described in **Item 3 of Schedule 1**; and

'**Workplan**' means the workplan agreed between the parties setting out the details and timing of the provision of the Services and *which forms part of this agreement*.

2. TERM

The term of this Agreement is specified in **Item 2 of Schedule 1** starting on the Commencement Date ('**Term**').

3. PERFORMANCE OF SERVICES

3.1 Standard of performance

AQIS will perform the Services:

- (a) to the best of its skill and ability; and
- (b) in a timely manner.

3.2 Responsibilities of AQIS

AQIS will:

- (a) ensure performance of the Services and compliance with this Agreement; and
- (b) liaise with, and comply with any reasonable requests made by, the Project Officer.
- (c) Have the right to replace the attending officer/s as deemed necessary

3.3 Limit of liability

- (a) AQIS does not guarantee/represent that by it performing the Services the product:
 - (i) will be permitted entry into Australia; or
 - (ii) satisfies any or all of the requirements to import the product into Australia including, without limitation, the requirements of the *Quarantine Act 1908*.
- (b) Regardless of anything in this Agreement, the Client is responsible for ensuring that the product meets all Australian requirements relating to the product, including, without limitation, the requirements of the *Quarantine Act 1908*.
- (c) To the maximum extent permitted by law, AQIS, its employees and advisers, disclaim all liability, including liability for negligence, for any loss, damage, injury, expense or cost incurred by any person as a result of the performance of the Services.
- (d) If the product does not meet Australian requirements, the Client is responsible for, and must meet the costs associated with re-inspection, re-exporting, treating or destroying the product.

4. FEES AND ALLOWANCES

4.1 Payment of the Fee

The Client must pay the Fee and allowances and costs in accordance with **Schedule 2**.

5. THE CLIENT'S OBLIGATIONS

5.1 Information

The Client must provide any information AQIS requires to enable AQIS to undertake the Services.

5.2 Facilities and assistance

During the Term the Client will provide the following assistance:

- (a) arrange and pay in advance for all travel and accommodation required by AQIS officers to enable the Services to be performed;
- (b) prepare the cargo/documentation in a manner that is ready for inspection;
- (c) prepare a schedule setting out the location of examination sites, exporter contacts, travel arrangements and anticipated working hours;
- (d) liaise with the on-site quarantine officer daily in advance to agree daily work programs including overtime requirements;
- (e) coordinate with program participants to help ensure that such labour and inspection facilities as required by AQIS are provided to enable examinations to take place, including access to appropriate equipment. The inspection facilities must meet the requirements for facilities as set out in the Workplan;
- (f) nominate persons with whom AQIS officers can liaise which may assist in the performance of the Services;
- (g) ensure the security of the goods after examination in accordance with the requirements of the Workplan to prevent product substitution, re-infestation or re-contamination; and
- (h) provide AQIS officers with communication facilities and access to all sites necessary to enable the Services to be performed.

6. CONFIDENTIAL INFORMATION

6.1 Confidential information

Confidential information means information that:

- (a) is by its nature confidential;
- (b) is treated as confidential; or
- (c) the party knows or ought to know is confidential;

except information that

- (d) is or becomes public knowledge otherwise than by breach of this agreement; or
- (e) has been independently developed or acquired by the party.

6.2 Use of confidential information

Each party:

- (a) may use confidential information only for the purposes of this Agreement; and
- (b) must keep confidential all confidential information except:
 - (i) to persons who have a need to know for the purposes of this Agreement, which has been notified in advance to the other party; and
 - (ii) to the extent (if any) a party is required by law to disclose any confidential information; and
- (c) must take all steps to prevent or stop any suspect or actual breach of confidence.

6.3 Confidentiality of Provisions

The provisions of this Agreement, if any, specified in **Item 7 of Schedule 1** are considered by the parties to be confidential and their content must not be disclosed without the agreement of the parties, unless otherwise required by law or by Commonwealth accountability requirements.

6.4 Non-merger of this clause

This clause survives the expiration or termination of this Agreement.

7. SUBCONTRACTING

AQIS may subcontract the performance of any of its obligations under this Agreement.

8. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

This Agreement does not create a relationship of employment, agency or partnership between the parties.

9. TERMINATION BY A PARTY

9.1 Termination

- (a) Either party may terminate this Agreement with immediate effect by giving notice to the other party if:
 - (i) that other party breaches any provision of this Agreement and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or
 - (ii) that other party breaches a material provision of this Agreement where that breach is not capable of remedy.
- (b) The Commonwealth may terminate this Agreement with immediate effect by giving notice to the Client if any event referred to in clause 9.2 happens to the Client.

9.2 Notification of events

The Client must notify the other party immediately if:

- (a) there is any change in the direct or indirect beneficial ownership or control of that party;
- (b) that party disposes of the whole or part of its assets, operations or business other than in the ordinary course of business;
- (c) that party ceases to carry on business;
- (d) that party ceases to be able to pay its debts as they become due;
- (e) any step is taken by a mortgagee to take possession or dispose of the whole or part of that party's assets, operations or business;
- (f) any step is taken to enter into any arrangement between that party and its creditors;
- (g) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person of the whole or part of that party's assets, operations or business; or
- (h) where that party is a partnership, any step is taken to dissolve that partnership.

9.3 Accrued rights and remedies

Termination of this Agreement under this clause 9 does not affect any accrued rights or remedies of either party.

10. AFTER TERMINATION

10.1 AQIS' duties on termination

On termination of this Agreement AQIS will stop work on the Services and the Client must pay AQIS for Services rendered prior to the date of termination.

11. NOTICE

11.1 Giving of notices

A party giving notice or notifying under this Agreement must do so in writing or by Electronic Communication:

- (a) directed to the recipient's address, as varied by any notice; and
- (b) hand delivered or sent by pre-paid post, facsimile or Electronic Communication to that address.

The parties' addresses and facsimile numbers are as specified in **Items 8 and 9 of Schedule 1**.

11.2 Receipt of notice

A notice given in accordance with **clause 11.1** is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by pre-paid post, 3 days after the date of posting;
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice unless, within one Business Day after that transmission, the recipient informs the sender that it has not received the entire notice; or
- (d) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth).

In this **clause 11.2**, 'Business Day' means a day on which banks are open for general banking business in the Australian Capital Territory.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties as to its subject matter.

13. ALTERATION

This Agreement may only be altered in writing signed by each party.

14. COSTS

Each party must bear its own costs of preparing and executing this Agreement.

15. JOINT AND SEVERAL LIABILITY

If a party comprises two or more persons, the provisions of this Agreement binding that party bind those persons jointly and severally.

16. GOVERNING LAW

This Agreement is governed by the law applicable in the Australian Capital Territory.

EXECUTED as an agreement.

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA)
by a duly authorised representative)
)

Signature of witness

Signature of authorised representative

Name of witness (print)

Name of authorised representative (print)

SIGNED for and on behalf of)
)
by a duly authorised representative)
)

Signature of witness

Signature of authorised representative

Name of witness (print)

Name of authorised representative

17. SCHEDULE 1 – OFFSHORE INSPECTION DETAILS

Item	Description	Details
1	Commencement Date	
2	Term of Inspection	From Commencement Date to
3	Services	Provide pre-inspection services.
4	Fee	As per Schedule 2
5	Project Officer	[Client person]
6	Specified Personnel	[Client personnel]
7	Confidential Provisions of Agreement	Nil
8	AQIS Address for Service - Postal and Email	Machinery & Military National Coordination Centre PO Box 222, Hamilton Central QLD 4009 aqis.machinery@aqis.gov.au or aqis.military@aqis.gov.au
9	The Client's Address for Service - Postal and Email	Attn: [Email]
10	Purpose of Offshore Inspection	
11	Description of machinery or equipment to be inspected	
12	Location of Offshore Inspection	
13	Availability of Equipment for Inspection - (ie cherry picker, stands)	
14	Cleaning Facilities - (include availability of cleaning equipment)	
15	Status of Cleaning Prior to Offshore Inspection	
16	Shipping Schedule	

18. SCHEDULE 2 – SERVICE PROVISION AND CHARGES

1. AQIS will:
 - (a) undertake the examination of (INSERT GOODS) that have been assembled for export.
 - (b) identify any treatment of the goods required by AQIS to be undertaken prior to AQIS granting pre-shipment inspection.
 - (c) identify any goods that AQIS decides not to grant *pre-inspection for entry* into Australia due to quarantine risk concerns including where inspections have detected the presence of unidentified pests, diseases or weed contaminants and where treatment of the goods has not been effective.
 - (d) at the commencement of this Agreement and as required by the Workplan ensure facilities and arrangements made available to AQIS comply with all AQIS requirements and are sufficient to enable AQIS to perform its obligations under this Agreement.

2. The Services will be provided:
 - (a) in an efficient and effective manner;
 - (b) in accordance with standards applying to inspections undertaken in Australia and the Workplan, including any stated technical specifications. The Workplan forms a part of this Agreement.

3. Any pre-shipment inspection provided by AQIS in accordance with this Agreement and any subsequent release of the goods in Australia, is subject to:
 - (a) compliance with any treatment the goods are required to undertake;
 - (b) compliance with any requirements specified in the Workplan, including any requirements relating to the transportation of the goods; and
 - (c) any other requirements notified by AQIS at the time any pre-shipment inspection is given by AQIS.

4. The Services will be performed on a 7 hours 30 minutes per day basis between the hours of 6.30am and 6.30pm, five days per week (excluding weekends). AQIS will consider any request to change the hours performed by the AQIS officer.

5. Payment for the Services will be at the rates specified in Table 1 below. In calculating the applicable rate specified in Table 1:
 - (a) all time spent travelling between Australia and the place where the Services are to be performed shall form part of the Services and be charged at the daily or weekly rate (whichever is applicable) regardless of the time of day travel is undertaken, ie overtime charges will not apply.

6. All time spent travelling in connection with the performance of the Services, other than to and from the place of accommodation where the Services are to be performed shall form part of the Services and be charged at the applicable rate for Services as specified in Table 1.
7. Except as already stated above, an overtime charge will apply where:
 - (a) the accumulated time spent performing the Services per week day exceeds 7 hours 30 minutes;
 - (b) the Services are performed on a day other than a week day; or
 - (c) the Services are performed on a national Australian public holiday.
8. The overtime rate applies to additional time where there is no break in the performance of the Services immediately following on from:
 - (a) 7 hours 30 minutes of work on a week day; or
 - (b) a callout period on a weekend; or
 - (c) a callout period on a national Australian public holiday.
9. The minimum 3 hour callout period, applies to additional time where:
 - (a) there is a break in the performance of the Services and the quarantine officer is required to return to work after 7 hours 30 minutes of work on a week day; or
 - (b) the quarantine officer is required to return to work on a weekend; or
 - (c) the quarantine officer is required to return to work on a national Australian public holiday.
10. AQIS will submit an account to the Client for the payment of any charges or costs payable under this Agreement on completion of the services.
11. The Client will pay AQIS within 30 days of AQIS submitting an account. Payment is to be made in Australian dollars and is to be made in accordance with the directions contained on the statement of account.

**Table1: Offshore Inspection Charges
(Fee for Service, Overtime and Officer Allowance)**

Category	Description	Unit	Current Price
Application	Assessment for an application for performance of a service offshore	Per application	A\$120
Import Permit Application	Permit conditions for importing Machinery into Australia	Per application (online via elodge)	A\$85
Import Permit Application	Permit conditions for importing Machinery into Australia	Per application (Manual lodgement)	A\$190
Fee For Service	Daily Rate (week days)	Day	A\$900
Fee For Service	Weekly Rate (week days)	Week	A\$3134
Fee For Service	1st ½ hour or part there of	½ hr	A\$90
Fee for Service	After 1st ½ hour	¼ hr	A\$45
Overtime	Weekday	¼ hr	A\$16
Overtime	Weekday	Minimum 3 hour callout	A\$192
Overtime	Non-Weekday	Minimum 3hour callout	A\$288
Overtime	Non-Weekday	¼ hr	A\$24
Other ¹	Meal Allowance & Officer Incidentals	Per officer	A\$TBA

¹ Other – Rates as set by the Department of Employment & Workplace Relations

**Table 1 - Offshore Inspection Charges
(Fee for Service, Overtime and Officer Allowance)**

12. In addition to the charges referred to in clause 1, the Client will be responsible for the payment of all reasonable, out-of-pocket expenses and costs associated with the performance of the Services including:
 - (a) Minimum 4 star accommodation with a single room for each officer being deployed.
 - (b) Payment of all travel and transportation expenses in connection with the performance of the Services including the cost of travel between Australia and the country of destination and any car hire required in the country of destination. The client is responsible for picking up the AQIS officer from the airport in the designated country and escorting them to the place of accommodation.
 - (c) Payment of all vaccinations required by the AQIS officer in order to travel to the country of destination to undertake pre-inspection.
 - (d) Costs associated with an AQIS officer communicating offshore back to an Australian Regional Office if the AQIS officer is unable to utilise the AQIS issued mobile phone.
13. The applicable standard of travel is business class for international travel and economy class for domestic travel within Australia or another country. Travel details must be advised 12 working days prior to departure.
14. Where the overseas travel involves travelling time of more than 12 hours, the AQIS officer will not be required to attend work before having had a reasonable opportunity to recuperate, either at the destination or en route.