

GENERAL CONDITIONS AND TRADE RULES FOR FORWARD SHEEP CONTRACTS

MARCH, 2018

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1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Contract, except where the context otherwise requires:

| | |
|--------------------------|---|
| Assessment Notice | Is a document provided by an Assessor to the parties, assessing the quality of Delivered Sheep. |
| Assessor | Is the person nominated by the parties in this Contract to verify, the quality of Delivered Sheep against the Quality Specifications. |
| AUSMEAT Language | <p>Is a common language which uses objective descriptions to describe meat products accurately to meet market requirements both nationally and internationally.</p> <p>AUS-MEAT develops, maintains and reviews accreditation standards through the Australian Meat Industry Language and Standards Committee (AMILSC). The AMILSC are responsible for setting the standards for the Australian Meat Industry. The standards are designed to protect the reputation of AUS-MEAT, the integrity of the AUS-MEAT language and the interests of the Australian industry in relation to the sale, distribution and export of Australian Meat and Livestock. The AUS-MEAT Language objective descriptions are for use by the producer on the land, meat processors, boning rooms, wholesalers and food service organisations. The language has been adopted throughout the Australian Meat Industry and provides customers with an accurate way of ordering meat products.</p> |
| Business Day | Is a day that is not a Saturday, Sunday or public holiday in the place of the Delivery Site. |
| Business Hours | Are the hours between 9 am and 5 pm on a Business Day. |
| Buyer | Is the party to the Contract that has agreed to purchase the commodity (or commodities) described in the Contract. |
| Close of Business | Is 5 pm on a Business Day at the place of the Delivery Site. |
| Contract | Is this document including the Terms of Trade and Trade Rules which bind the Buyer and the Seller |
| Contract Amount | <p>Means:</p> <p>(a) Where the Terms of Trade nominate a Fixed Price</p> <p>(i) the price per kg (lwt or HSCW) agreed in this Contract multiplied by the kilograms; or</p> <p>(ii) the price per head agreed in this Contract multiplied by the head of Delivered Sheep;</p> <p>(b) Where the Terms of Trade nominate a Formula Price, the price of the Reference Indicator on the date nominated by the Seller (giving no less than 24 hour's notice) or, if no date is nominated, the Delivery Date, plus the Indicator Price Difference, multiplied by the kilograms (lwt (adjusted by the Dressing Percentage) or HSCW) (as the case requires) of Delivered Sheep; or</p> <p>(c) In any other case, in accordance with the Contract.</p> <p>In each case, adjusted in accordance with the Premiums & Discounts Table (if applicable).</p> |
| Del Credere Agent | Means an agent who sells products and/or services for another party and guarantees that the Seller will be paid for them. |

| | |
|--|---|
| <i>Deliverable Quantity</i> | Means: (a) If the Terms of Trade specify a particular number of sheep, that number; or (b) If the Terms of Trade specify a measurement of weight, a weight within the range of tolerances for that weight. |
| <i>Delivered Sheep</i> | Means the sheep and lambs delivered under this Contract. |
| <i>Delivery</i> | Means the delivery of the sheep under this Contract. |
| <i>Delivery Date</i> | Means the date on which delivery must occur, if a specified date, or the date on which delivery occurs, if a Delivery Period applies, as set out in this Contract. |
| <i>Delivery Period</i> | Means the period during which Delivery can occur, as set out in this Contract. |
| <i>Delivery Site</i> | Means the location to which the Seller must deliver the sheep to the Buyer under this Contract, being a site equipped to unload, hold, weigh and, if necessary under this Contract, slaughter sheep in the manner anticipated under this Contract or a site with reasonable access to such a site. |
| <i>Dressing Percentage</i> | The percentage agreed in this Contract. |
| <i>Event of Default</i> | Has the meaning given to that term in clause 4.12.1. |
| <i>Fixed Price</i> | Is a Contract price that is fixed and agreed to at the time of contracting, and not subject to any additional pricing formula. |
| <i>Formula Price</i> | Is a Contract price that is determined by the addition of a number of independently determined price components, such as the addition of an Indicator Price and an Index Price Difference that have been determined on different occasions. |
| <i>GST</i> | Means goods and services tax or similar value added tax levied or imposed in Australia, pursuant to the GST law or otherwise, on a supply. |
| <i>GST Act</i> | Means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth). |
| <i>GST law</i> | Has the same meaning as in the GST Act. |
| <i>HSCW</i> | Means Hot Standard Carcass Weight which is the weight of a carcass, once the live animal has been slaughtered at the Delivery Site in accordance with the AUSMEAT Language. |
| <i>Indicator Price</i> | Means the benchmark nominated by the parties. |
| <i>Indicator Price Difference</i> | Means the adjustment to the Index Price. |
| <i>Insolvency Event</i> | Means, for a person, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under subsection 459F(1) of the <i>Corporations Act 2001</i> (Cth) to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, the taking of any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event. |
| <i>kg</i> | Means kilogram, which is a unit of measuring mass (weight). |
| <i>lwt</i> | Means live-weight, which is the weight of a live animal. |
| <i>Payment Date</i> | Means the date the Contract Amount is due and payable; being the number of days set out in the Terms of Trade after Delivery of the sheep the subject of this Contract or, if that day is not a Business Day, the next Business Day. |

| | |
|--------------------------------------|--|
| Premium & Discount Table | Means the adjustment tables set out in clause 3.3 of this Contract, if those tables are marked 'not applicable', any other document attached to this Contract that sets out the price premiums or discounts (or both), or the pricing Grid, used to calculate the Contract Amount. |
| Quality Specifications | Means those quality specifications set out in clause 3.1 of this Contract. |
| Recipient Created Tax Invoice | Has the same meaning as in the GST Act. |
| Seller | Is the party to the Contract that has agreed to sell the sheep described in this Contract. |
| Tax Invoice | Has the same meaning as in the GST Act. |
| Terms of Trade | Means Section 3 of this Contract. |
| Trade Rules | Means the current version of the "Trade Rules for Forward Sheep Contracts" as at the date of this Contract and which are deemed to be contained in Section 4 of this Contract. |

1.2 INTERPRETATION

- 1 In the event of any inconsistency between the Trade Rules and the Terms of Trade, the Terms of Trade will prevail.
- 2 In this Contract unless the context otherwise requires or permits:
 - (a) A reference to a party includes references to the party's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), assigns, contractors, agents, employees, invitees and licensees.
 - (b) A right or obligation of 2 or more persons gives that right or imposes that obligation jointly and severally.
 - (c) A reference to a person includes a company, partnership, joint venture, association or statutory authority or other entity.
 - (d) A reference to an association or body which has ceased to exist includes the organisation established in the place of that association or body to serve substantially the same purposes.
 - (e) A reference to any statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute.
 - (f) The words in "writing" or "written" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient.
 - (g) Unless the context otherwise clearly indicates, words used in the singular include the plural and vice versa.
 - (h) Other grammatical forms of defined words or expressions have corresponding meanings.

Parties to the contract to initial every page to acknowledge contract T&C's:

2. CONTRACT DETAILS

| | |
|---|--|
| Contract Reference Number | _____ |
| Contract Type <i>[Tick relevant option - select one contract type only]</i> | <input type="checkbox"/> Fixed Price – Grid price table attached (Reference No. _____) <input type="checkbox"/> Fixed Price – Section 3.3 Premium & Discount Tables <input type="checkbox"/> Based on Formula Price (Reference Indicator: _____) (Reference Pricing Date: _____ / _____ / _____) |
| Date <i>[DD/MM/YYYY]</i> | _____ / _____ / _____ |
| Buyer | Name: _____ <i>[Name]</i> Address: _____ <i>[Address]</i> ABN: _____ <i>[ABN]</i> PIC: _____ <i>[PIC – Property Identification Code]</i> Phone: _____ <i>[Phone number]</i> Fax: _____ <i>[Fax number]</i> Email: _____ <i>[Email address]</i> |
| Seller | Name: _____ <i>[Name]</i> Address: _____ <i>[Address]</i> ABN: _____ <i>[ABN]</i> PIC: _____ <i>[PIC – Property Identification Code]</i> Phone: _____ <i>[Phone number]</i> Fax: _____ <i>[Fax number]</i> Email: _____ <i>[Email address]</i> Bank BSB: _____ <i>[BSB]</i> Bank Account Name: _____ <i>[Account name]</i> |

Broker or Agent*[If applicable]*Name: _____ *[Name]*Address: _____ *[Address]*ABN: _____ *[ABN]*Phone: _____ *[Phone number]*Fax: _____ *[Fax number]*Email: _____ *[Email address]*Bank BSB: _____ *[BSB]*Bank Account Name: _____ *[Account name]*

3. TERMS OF TRADE

3.1 DELIVERABLE COMMODITY DETAILS

| | |
|---|--|
| Commodity | <p>Description: _____ <i>[e.g.: Prime Lamb, Store Lamb, Breeder]</i></p> <p>Weight/head: _____ kg lwt/HSCW (refer to attached Price/Quality Grid if applicable) YES/NO</p> <p style="text-align: right;"><i>[target weight or weight range per head]</i></p> <p>Age: _____ months/years <i>[target age range]</i></p> <p>Electronic Identification File Reference: _____</p> |
| Quality Assessment | <p>To be made by an accredited qualified sheep assessor, if required by the Buyer and/or the Seller, at the place and time of delivery of the sheep. The Assessor shall be one of, two of, or all of the Assessors nominated below. Seller shall be liable for the costs of Assessment.</p> |
| Assessor 1 <i>[If applicable]</i> | <p>Name: _____ <i>[Name]</i></p> <p>Address: _____ <i>[Address]</i></p> <p>ABN: _____ <i>[ABN]</i></p> <p>Phone: _____ <i>[Phone number]</i></p> <p>Email: _____ <i>[Email address]</i></p> |
| Assessor 2 <i>[If applicable]</i> | <p>Name: _____ <i>[Name]</i></p> <p>Address: _____ <i>[Address]</i></p> <p>ABN: _____ <i>[ABN]</i></p> <p>Phone: _____ <i>[Phone number]</i></p> <p>Email: _____ <i>[Email address]</i></p> |
| Quantity <i>[Tick appropriate quantity method and provide detail in space provided]</i> | <p><input type="checkbox"/> Number: _____</p> <p><input type="checkbox"/> Weight: _____</p> |

| | |
|--|---|
| Quantity Tolerances | <p>Where "Number" is the Quantity method, the contract number of head must be delivered, the Buyer will accept a delivery tolerance of:</p> <p>±/- _____ head or ±/ _____ %</p> <p>Where "Weight" is the Quantity method, the Buyer will accept a delivery tolerance of:</p> <p>±/- _____ % or ±/- _____ kg.</p> <p>Weights will be final by _____ [weighing method] at _____ [location place].</p> |
| Delivery Date Delivery Period [delete as applicable] [DD/MM/YYYY] | <p>On: _____ / _____ / _____</p> <p>or</p> <p>From: _____ / _____ / _____</p> <p>To: _____ / _____ / _____</p> <p>In the event that delivery is delayed by the seller/purchaser beyond five (5) business days then the seller/purchaser shall be entitled to the following per day compensation for feed and holdings costs. If both parties agree, then denote as not applicable (N/A).</p> <p>\$ per head _____ Seller/Purchaser</p> <p>\$ per day _____ Seller/purchaser</p> |
| Delivery Site | <p>Address _____</p> <p>_____</p> |
| Agent/ Agency | <p>1. Is an agent being used?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>2. Is the agent a Del Credere agent?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>For avoidance of doubt, unless otherwise indicated the agent is acting as Del Credere</i></p> |

3.2 PRICE AND PAYMENT DETAILS

| | |
|---|---|
| <p>Price (expressed in this contract to be exclusive of GST and before deductions for commission, levies etc)</p> <p><i>[tick one box only, and fill in detail as/if required]</i></p> | <p><input type="checkbox"/> _____ cents/ kg lwt or HSCW [<i>delete items not required</i>]; or</p> <p><input type="checkbox"/> \$_____ / head; or</p> <p><input type="checkbox"/> Refer attached Price/ Quality Grid</p> |
| <p>Price Adjustment</p> <p><i>[tick one box only]</i></p> | <p><input type="checkbox"/> Grid price table attached (Reference No. _____)</p> <p><input type="checkbox"/> DEXA-Dual Energy X-Ray Absorptiometry (Payment Reference Attached)</p> <p><input type="checkbox"/> Section 0 Premium and Discount Tables</p> |
| <p>Dressing Percentage</p> <p><i>[leave blank if not applicable]</i></p> | <p>_____ %</p> |
| <p>Payment</p> | <p>The Buyer shall pay the Seller or their Agent, in full to their nominated bank account in accordance with this Contract.</p> <p>Payment will be made by the Buyer to the Seller or their Agent by electronic transfer to Seller's nominated bank account on or by _____ from the Delivery Date [<i>e.g. 7 days, 15 days, 30 days, etc.</i>]</p> <p><i>Note: All statutory levies and payments shall be deducted by the Buyer and are payable by the Buyer unless specified or required under relevant legislation as detailed below:</i></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |

| | |
|--|---|
| <p>Agent's Commission</p> <p>Unless otherwise specified, the agent's commission is on the gross value of the scents/kg, per head, invoice total</p> <p><i>[Fill in price and delete non-applicable weight base as relevant. Denote section N/A not applicable if agent's commission is not applicable]</i></p> | <p>_____ cents/kg lwt or HSCW or</p> <p>\$ _____ "per head" or</p> <p>_____ % of invoice value</p> <p>Commission Notes</p> <p>_____</p> <p><i>Parties acting as agents must adhere to the prevailing state legislation. Commission will be deducted before payment to the Seller.</i></p> |
| <p>Passing of Title</p> <p><i>[tick the applicable alternative]</i></p> | <p>Title to the sheep subject to this Contract passes to the Buyer free from encumbrances and all other adverse interests on:</p> <p><input type="checkbox"/> Full payment</p> <p><input type="checkbox"/> Delivery</p> <p><input type="checkbox"/> Other (specify below)</p> <p>_____ <i>For avoidance of doubt, unless otherwise indicated, passing of title will occur on full payment of sheep in accordance to the Trade Rules</i></p> |

3.3 PREMIUM AND DISCOUNT TABLES

A. Price Adjustment for Individual Animal Weight

| | |
|--|-----------------------------------|
| + 0.1kg or more, heavier than specified weight | _____ cents/ kg discount/ premium |
| - 0.1kg or more, lighter than specified weight | _____ cents/ kg discount/ premium |

B. Price Adjustment for Individual Animal Fat Score

| | |
|-------------|-----------------------------------|
| Fat Score 1 | _____ cents/ kg discount/ premium |
| Fat Score 2 | _____ cents/ kg discount/ premium |
| Fat Score 3 | _____ cents/ kg discount/ premium |
| Fat Score 4 | _____ cents/ kg discount/ premium |
| Fat Score 5 | _____ cents/ kg discount/ premium |

C. Discounts as Per the Applicable Processor Grid Will Apply at Times of Slaughter for the Following

| | |
|-------------------------------|--|
| Grass seed damage | Less _____ cents/ kg or Less _____ Discount % |
| Bruising | Less _____ cents/ kg or Less _____ Discount % |
| Pleurisy | Less _____ cents/ kg or Less _____ Discount % |
| Arthritis | Less _____ cents/ kg or Less _____ Discount % |
| Dog bites | Less _____ cents/ kg or Less _____ Discount % |
| Ovis | Less _____ cents/ kg or Less _____ Discount % |
| Crutching | Less _____ cents/ kg or Less _____ \$ per head Less _____ Discount % |
| Rejection Charge Upon Arrival | Charged _____ \$ per head |

- Hogget's that have broken teeth as per the AUSMEAT language shall be priced at the applicable sheep grid at time of slaughter.
- All other out of specification sheep will be subject to the processor grid penalties at time of slaughter.
- Sheep that are not fit for purpose upon arrival, due to but not limited to; lameness, injury, animal health issue will be identified by ear tag or photograph and communicated to the seller.
- The agent/seller may request details of the discount schedule one (1) week prior to delivery for sheep outside contracted specification.

D. Alternative to Premium and Discount Tables

- 1 Mark the tables at 'A', 'B' 'C' as "N/A" (for "Not Applicable") where appropriate; and
- 2 Attach the negotiated Price/Quality Grid to this Contract.

4. TRADE RULES

4.1 SALE AND PURCHASE

The Buyer agrees to buy and the Seller agrees to sell, the sheep of the quantity and quality as stated herein and in accordance with the Contract.

4.1.1 Confirmation of Terms of Trade

The parties intend that they are legally bound by the Terms of Trade from the moment they agree to the Terms of Trade (whether orally or otherwise).

The Contract must be executed as soon as practicable, and in any event no later than the close of business on the next Business Day after the Terms of Trade are agreed.

If either Buyer or Seller fails to send an executed Contract, then the Contract sent by the other party will be deemed to be the Terms of Trade for the Contract.

4.2 QUANTITY

The Seller must deliver to the Buyer the Deliverable Quantity of sheep.

4.3 CURFEW PRACTICES

The parties will use standard industry curfew practices as determined by the Assessor. The Seller must make all reasonable endeavors to ensure the weight of Delivered Sheep will be as required to meet specification.

4.3.1 Weights

Weights will be final in accordance with the nominated scales and pricing formula, being the scales at the Delivery Site, or such other scales as agreed by the parties.

4.4 QUALITY

Sheep delivered under this Contract shall meet the Quality Specifications.

The Terms of Trade may require Delivered Sheep to be assessed against the Quality Specification, in which case such assessment must be conducted by the Assessor at the Delivery Site, or such other place agreed by the parties, immediately prior to Delivery. The cost of the assessment will be paid by the Seller (unless mutually agreed otherwise).

4.5 ALTERATION OF CONTRACT

No amendment, modification or waiver in respect of this Contract will be effective unless in writing and executed by each of the parties or confirmed by an exchange of correspondence.

4.6 DELIVERY SITE

The Seller must deliver, at its cost, the Deliverable Quantity to the Delivery Site (unless mutually agreed otherwise).

4.7 DELINQUENT PAYMENT AT TIME OF DELIVERY

If, on the Delivery Date or during the Delivery Period, the Buyer is indebted and delinquent in payment to the Seller

under this, or any other agreement, the Seller is entitled to withhold delivery under this Contract until such time the indebtedness is satisfied. If that does not occur within three [3] Business Days from Delivery Date or the end of the Delivery Period, the Seller may cancel the contract, in which event, the Buyer shall be deemed to be in default.

4.8 DEL CREDERE AGENT

If the agent is a Del Credere Agent, the Buyer and Seller agree that the Buyer pays the Agent the Contract Amount and the Agent pays the Seller the Contract Amount, less agreed commission. The rights of the Seller under this Contract in relation to payment of the Contract Amount are assigned to the Agent to do anything the Seller could under this Contract to recover the Contract Amount.

4.9 PASSING OF TITLE AND RISK

4.9.1 Passing of Title

Title to the sheep subject to this Contract passes to the Buyer free from encumbrances and all other adverse interests on payment of the Contract Amount, unless the Terms of Trade specify that title passes at some other time.

4.9.2 Passing of Risk

Risk in the sheep subject to this Contract passes to the Buyer on Delivery.

4.9.3 National Vendor Declaration (NVD) and Animal Health Statements

The Seller must comply with all laws and regulations regarding NVD and Animal Health Statements. The 'owners risk' with regards to the accuracy of information provided by the NVD and Animal Health Statements will be the responsibility of the Seller.

4.9.4 Rejection

If the Terms of Trade require that verification of the sheep delivered against the Quality Specification be conducted by the Assessor, and the Assessor has signed an Assessment Notice stating that the sheep are within the specification allowed within this Contract, the Buyer has no right to reject Delivered Sheep.

Rejection of Delivered Sheep does not release either Buyer or Seller from their obligations under this Contract.

4.10 ANIMAL WELFARE

The Seller and the Buyer agree to comply with their duties under the Australian Animal Welfare Standards and Guidelines for the Land Transport of Livestock and further to consign, manage, receive, transport and handle livestock in accordance with any other or additional requirements of animal welfare legislation specific to the State (which includes a territory or Region) or States in which livestock are consigned, managed, received, transported and handled.

4.11 REPRESENTATIONS

4.11.1 Seller's Representations

The Seller represents and warrants to the Buyer at the date of this Contract and on Delivery that:

- 1 The Seller has good right and title to the sheep subject to this Contract free from any encumbrances;
- 2 The Seller has complied with all applicable laws and standards necessary to give effect to this Contract, including the Model Code of Practice for the Welfare of Animals applicable to the jurisdiction, and has all necessary authorisations to complete this Contract;
- 3 The sheep subject to this Contract:
 - a Are structurally sound;
 - b Have a manageable temperament;
 - c Are not lame, blind, maimed, diseased or unfit to travel;
 - d Have a correctly completed National Vendors Declaration (NVD) on Delivery;
 - e Are free of any substance, veterinary or otherwise, that would restrict them from slaughter for their intended use at the time of Delivery, and are not still within the prescribed withholding period associated with the said substance;
 - f Meet the stock movement requirements of any relevant legislation; and
 - g Are accompanied by all documentation, certificates, or other requirements necessary to give the Buyer good right and title to the sheep subject to this Contract on Delivery.

4.11.2 Joint Representations

Each party represents and warrants to the other party at the date of this Contract and on Delivery that it is permitted to enter into this Contract and that the person signing on behalf of a party has authority to sign on behalf of that party.

4.12 DEFAULT

4.12.1 Event of Default

The occurrence at any time with respect to a party of any of the following events constitutes an Event of Default with respect to such party:

- 1 **(Failure to pay or deliver)** Failure by the party to make, when due, any payment under this Contract or effect Delivery in accordance with this Contract;
- 2 **(Breach of Contract)** Failure by the party to comply with or perform any material term of this Contract;
- 3 **(Misrepresentation)** A representation given under this Contract proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;
- 4 **(Insolvency Event)** The party is subject to an Insolvency Event.

4.12.2 Notice of Default

Where a party becomes aware of the existence of an Event of Default or other breach under this Contract by that party (**Defaulting Party**), the Defaulting Party must notify the other party (**Non-Defaulting Party**) of the Event of Default or other breach under this Contract (as the case requires) as soon as practicable. The failure of a party to notify the other party of a breach under this Contract as soon as practicable is an Event of Default.

4.12.3 Right of Termination

If at any time an Event of Default with respect to a party (the **Defaulting Party**) has occurred and is then continuing, the other party may, by notice to the Defaulting Party, terminate this Contract.

Termination of this Contract in accordance with this clause does not affect the Non-Defaulting Party's right to any remedies that may be available at law, including the right to recover damages.

4.12.4 Consequences of Default

Where there is an Event of Default or a party is otherwise in breach of this Contract, the Non-Defaulting Party has the right to recover its losses, including, by way of example:

- 1 Should the Buyer not take delivery of sheep in accordance with this Contract, the Seller's losses in connection with the sale of the sheep to another party.
- 2 Should the Seller not deliver sheep in accordance with this Contract, the Buyer's losses in connection with the purchase of sheep from another party.

For avoidance of doubt, this clause in no way limits any remedies available to the Non-Defaulting Party at law, or the ability of the parties to negotiate amendments to this Contract.

4.12.5 Liquidated Damages

If a party (the **Defaulting Party**) fails to deliver, or take delivery of, the Deliverable Quantity of sheep on the Delivery Date or during the Delivery Period, and the other party (the **Non-Defaulting Party**) terminates this Contract under clause 4.12, the defaulting party must, within 7 Business Days after a request by the non-defaulting party, pay the non-defaulting party, by way of liquidated damages, an amount equal to the undelivered component of the Deliverable Quantity (the Liquidated Damages Quantity) multiplied by the difference between the Contract Amount and the **Fair Market Price**. This will be determined by either the Assessor identified in Section 3.1 or the nominated Dispute Resolution Organisation as specified in Section 4.16.

Any request for Liquidated Damages by the non-defaulting party is to be made in writing as soon as practicable and, in any event, no later than 10 (ten) Business Days after the failure to deliver or take delivery (as the case requires).

Fair Market Price means:

- 1 The price at which the non-defaulting party buys or sells (as the case requires) the Liquidated Damages

Quantity of sheep, such acquisition to be a bona fide, arm's length transaction no later than 10 Business Days after the Delivery Date; or

- 2 The price being offered by other sellers or buyers (as the case requires) in the market on the first Business Day after the giving of the notice referred to in this clause by the non-defaulting party.

4.12.6 No Limitation

For clarity, the obligation under clause 4.12.5 is in addition to, and does not limit, any other remedy available to the non-defaulting party, including suing the defendant party for damages. The amount payable under clause 4.12.5 does not operate as a limit on damages recoverable by the non-defaulting party from the defaulting party.

4.13 PRICE AND PAYMENT

The Buyer must pay the Seller, or their Agent, the Contract Amount (plus any applicable GST) on or before the Payment Date.

4.13.1 Late Payment

If the Buyer does not pay the Seller, or their Agent, the Contract Amount in full by the Payment Date, then in addition to the Contract Amount, the Buyer must pay the Seller interest on any amount outstanding under this Contract at the Reserve Bank of Australia's Cash Rate Target plus 5% per annum at the same time as they pay the balance of the Contract Amount.

4.13.2 GST

Unless expressly included, the Contract Amount and the consideration for any supply under or in connection with this Contract does not include GST.

To the extent that any supply made under or in connection with this Contract is a taxable supply, the recipient must pay, in addition to the consideration provided under this Contract for that supply (unless it expressly includes GST) an amount (additional amount) equal to the amount of that consideration (or its deemed GST exclusive market value, if applicable) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.

The Seller, or their Agent, or the supplier in the case of other supplies, must issue a Tax Invoice to the Buyer, or the recipient of a taxable supply, to which this clause 4.13.2 applies, no later than the time of payment of the GST inclusive consideration for that supply.

Alternatively, if the Buyer notifies the Seller that they wish to issue Recipient Created Tax Invoices in respect of taxable supplies by the Seller to the Buyer, then the Buyer and the Seller will do all things necessary to entitle the Buyer to issue Recipient Created Tax Invoices in respect of those taxable supplies in accordance with the GST law. The Buyer must issue any Recipient Created Tax Invoice in respect of a taxable supply, to which this clause 4.13.2 applies, no later than the time of payment of the GST inclusive consideration for that supply.

If either party is entitled under this agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the party being reimbursed or indemnified, or by its representative member.

Any term that is defined under the GST law has that meaning under this clause 4.13.2 unless the context requires otherwise.

4.14 NOTICES

Notices given under this Contract must be in writing.

Notices may be given in person, by courier, by mail, by facsimile transmission or by email.

For the purposes of this section a party's contact details are those set out in Section 2 of the Contract.

Notices will be deemed effective as indicated:

- 1 If delivered by person, by courier or mail, on the date it is delivered to the recipient or their address;
- 2 If sent by facsimile transmission, on the date that transmission is sent unless the sender receives notification that the transmission failed;
- 3 If sent by email, on the date that email is sent unless the sender receives notification that the message was not delivered to the recipient,

unless the date of delivery or receipt (as applicable) is not a Business Day, or the communication is delivered or received (as applicable) after the close of business on a Business Day, in which case that communication will be deemed effective on the next Business Day.

4.15 FORCE MAJEURE

Neither party is liable to the other for any failure to perform any obligation under this Contract (other than an obligation to pay money) caused by any fact, circumstance, matter or thing beyond the reasonable control of that party, including any act of God, fire, flood, wind, explosion, power failure, war, embargo, act of government, strike, lock-out, other interference with work, civil commotion, embargo on the transport or sale of sheep or outbreak or suspected outbreak of exotic disease in Australia (but then only to the extent that a law, rule, decree or policy, including the Australian Veterinary Emergency Plan, restricts that party's ability to perform the relevant obligation under the Contract) which is not due to that party's own acts or negligence. For avoidance of doubt, excludes any such failure caused by matters typically affecting production, including the occasion of drought.

4.16 DISPUTES

Any dispute arising out of this Contract shall be referred to arbitration in accordance with the Dispute Resolution

Rules of _____ organisation (*to be nominated*) in force at the date of this

Contract and of which both parties hereto shall be deemed to be aware.

Neither party, nor any persons claiming under either of them, shall bring any action or other legal proceedings against the other in respect of any such dispute until such dispute shall first have been heard and determined by

the arbitration in accordance with the Dispute Resolution Rules of _____ organisation (*to be nominated*).

The obtaining of an award from the arbitrators shall be a condition precedent to the right of either party, or of any person claiming under either of them, to bring an action or other legal proceedings against the other of them in respect of any such dispute.

4.17 GENERAL

4.17.1 Entire Agreement

This Contract constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

4.17.2 Counterparts

This Contract (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts. All counterparts make the one agreement. Facsimiled or emailed copies of this Contract may be executed. The facsimiled or emailed copies will bind the parties and receipt of the originals will not affect the binding nature of the facsimiled or emailed copies.

4.17.3 Legal Advice

The parties acknowledge their right to obtain legal advice in relation to this Contract and have either obtained that advice or chosen not to.

4.18 GOVERNING LAW AND JURISDICTION

4.18.1 Governing Law

This Contract is governed by and construed in accordance with the law in the State or Territory of the Delivery Site.

4.18.2 Jurisdiction

Each party irrevocably submits to the jurisdiction of the courts of the State or Territory in accordance with whose laws this Contract is governed.