

DEFERRED SALES POOL CONDITIONS

Terms and Conditions

The following terms and conditions ("**DSP Conditions**") are incorporated as the "Pool Conditions" into the Contract made between the Supplier and CBH Grain Pty Ltd ABN 39 089 394 883 ("**CBH Grain**") and formed upon the Supplier (or its representative) either:

- a. Nominating CBH Grain as the acquirer of the Grain and specifying the Deferred Sales Pool and the payment method; or
- b. completing and submitting to CBH Grain a Schedule in a manner which specifies CBH Grain as the acquirer of the Grain, the Deferred Sales Pool and the payment method.

1. Definitions and interpretation

1.1 Definitions

Capitalised terms used in these DSP Conditions which are defined in the General Terms and Conditions have the meaning given in the General Terms and Conditions unless otherwise defined in these DSP Conditions.

"**Contract**" means the contract constituted by:

- a. these DSP Conditions;
- b. the Schedule;
- c. the CBH Record; and
- d. the General Terms and Conditions

"**Deferred Sales Pool**" means the Pool so named by CBH Grain to which the Supplier agrees to deliver the Tonnage pursuant to the Contract.

"**General Terms and Conditions**" means the general terms and conditions for CBH Grain's pool contracts which are current at the date of the formation of the Contract, as published on the Web Site.

"**Gross Deferred Sales Pool Return**" means the amount per tonne returned by the Deferred Sales Pool after deduction of the Hedging Gains and Losses.

"**Hedging Gains and Losses**" means gains or losses that the Deferred Sales Pool incurs or benefits from through the hedging activities conducted on behalf of the Deferred Sales Pool by CBH Grain and/or associated parties.

"**Management Fee**" means 0.75% of the Gross Deferred Sales Pool Return.

"**Market Price**" means the applicable fair market price on a free in store basis at the Port which grain meeting the description of the Grain may be bought on the open market between willing but not anxious vendors and purchasers on the relevant day as determined by CBH Grain.

"**Schedule**" means the CBH Grain form entitled "Deferred Sales Pool Schedule", the LoadNet@ Nomination receipt or the Grain Purchase Contract Confirmation (as the case requires) forming part of the Contract.

1.2 Interpretation

In these DSP Conditions unless the contrary intention appears:

- a. a reference to a person includes a reference to a body corporate;
- b. a reference to a paragraph or clause is a reference to a paragraph or clause in these DSP Conditions;
- c. a reference to these DSP Conditions or any other instrument includes any variation or replacement of them;
- d. if a word or phrase is given a defined meaning, any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- e. the singular includes the plural and vice versa.

2. Failure to Nominate Tonnage

2.1 Default

Failure to Nominate at least the Tonnage in accordance with the terms and conditions of the Contract ("**Wash Out**") is a default by the Supplier. For the avoidance of doubt, there is no tolerance.

2.2 Entitlement to liquidated damages

If:

- a. the Supplier defaults as set out in clause 2.1; and
- b. the Estimated Final Equity is less than the Market Price,

CBH Grain may recover liquidated damages ("**Wash Out Fee**") from the Supplier calculated as the difference per tonne between the Estimated Final Equity on the next Business Day after the end of the Delivery Period and the Market Price on the same day multiplied by the number of Tonnes which the Supplier fails to Nominate in accordance with the terms and conditions of this Contract (the "**Undelivered Tonnage**"),

plus:

- (i) an amount equal to the amount which the Estimated Costs would have been payable for the Undelivered Tonnage (had the Undelivered Tonnage been Nominated) as at the day after the Delivery Period; and
 - (ii) the Underwriting Fee (if any) which would have been payable for the Undelivered Tonnage (had it been Nominated).
- c. CBH Grain will not be entitled to recover under this clause any liability incurred as a result of its gross negligence, wilful default or fraud.
 - d. CBH Grain will not be entitled to recover under this clause any amount for which it receives compensation under any other provision of the Contract.

2.3 Acknowledgement

The parties acknowledge that the liquidated damages in clause 2.2 represent an accurate estimate of the loss that CBH Grain is likely to suffer if the Supplier Washes Out.

3. No initial instalment for "Deferred Option"

Clause 7.3a in the General Terms and Conditions is deleted.

4. Distributions options payments are later

Clause 8.3 in the in the General Terms and Conditions is deleted and replaced with the following:

CBH Grain shall pay the Consideration in the following manner:

- a. after 1 October immediately following the Nomination of Grain (or earlier at CBH Grain's absolute discretion) and within 45 days of 1 October, a first Distribution Instalment ("**October Payment**");
- b. after 1 January immediately following the October Payment (or earlier at CBH Grain's absolute discretion) and within 45 days of 1 January, a second instalment Distribution Instalment ("**January Payment**");
- c. after 1 April immediately following the January Payment (or earlier at CBH Grain's absolute discretion) and within 45 days of 1 April, a third Distribution Instalment ("**April Payment**");
- d. after 1 July immediately following the April Payment (or earlier at CBH Grain's absolute discretion) and within 45 days of 1 July, a fourth Distribution Instalment;

- e. by no later than 15 Business Days after the Pool Finalisation, a final instalment being an amount equal to the Consideration less the total amount of the Distribution Instalments paid under clauses 8.3a, 8.3b, 8.3c and 8.3d.