

PART C – WESTERN AUSTRALIA ONLINE AND FORWARD CASH CONTRACTING TERMS & CONDITIONS

Subject to the Special Conditions, the following terms and conditions apply to the sale of the Commodity by the Supplier named in the Schedule (Supplier) and CBH Grain Pty Ltd ABN 39 089 394 883 (Buyer).

1. DEFINITIONS

Unless otherwise stated:

“**Actual or Estimated Price**” means the applicable fair market price at which grain meeting the description of the Commodity may be bought on the open market between willing but not anxious vendors and purchasers on the relevant day;

“**Business Day**” means a day that is not a Saturday, Sunday or public holiday in Perth, Western Australia;

“**Carter’s Delivery Form**” means the form or online application entitled “Carter’s Delivery Form” issued and managed by CBH and signed by the Supplier or its representative upon delivery of the Commodity to a CBH storage facility;

“**CBH**” means Co-operative Bulk Handling Limited ABN 29 256 604 947;

“**CBH Debt**” means any amount that is due and payable by the Supplier to CBH or any Related Body Corporate of CBH;

“**CBH Delivery and Warehousing Terms**” means the CBH delivery and warehousing terms current at the time at which a Nomination is made, as published on the CBH web site at www.cbh.com.au;

“**CBH Mobile**” means CBH’s mobile online grain management interface which is available to registered users at www.mobile.cbh.com.au;

“**Charges**” means all charges, assessments, taxes or fines levied, assessed or charged on the Commodity by any statutory authority, organisation, fund or government department under any legislative or regulatory authority, custom or trade practice in the industry;

“**Commodity**” means the grain described in item 2 of the Schedule (“Commodity Details”);

“**Contract**” means the contract evidenced by these terms and conditions, the Special Conditions and the Schedule;

“**Daily Contract Price**” means the price determined daily by the Buyer (and as amended from time to time), as the price per tonne at which the Buyer will purchase grain that meets the description of the Commodity on the same terms as contained in these terms and conditions;

“**Delivery Period**” means the period specified in item 4.1 (“Delivery Period”) of the Schedule;

“**Destination Site**” means the CBH outturn site stated in item 4.3 (“Destination Site”) of the Schedule which must be nominated by the Supplier when transferring grain to this Contract.

“**Interest Rate**” means 5% above the rate published on the Australian Financial Markets Association webpage BBSW as at 11am on 31 October each year;

“**Insolvency Event**” means:

- (a) the making of an application to a court for an order that a party or any Related Body Corporate be wound up and such application is not withdrawn or dismissed within 5 Business Days of being served or an order is made that a party or any Related Body Corporate be wound up;
- (b) the making of an application to a court for an order appointing a liquidator or provisional liquidator in respect of a party or any Related Body Corporate, and such application is not withdrawn or dismissed within 5 Business Days of being served, or one of them is appointed, whether or not under an order;
- (c) except to reconstruct or amalgamate while solvent or on terms approved by the other party, a party or any Related Body Corporate entering into, or resolving to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of all or any class of creditors, or proposes a reorganisation, moratorium or other administration involving any of them;
- (d) a party or any Related Body Corporate resolving to wind itself up or otherwise dissolve itself or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the other party, or is otherwise wound up or dissolved;
- (e) a party or any Related Body Corporate stating that it is unable to pay its debts when they fall due;
- (f) a party or any Related Body Corporate is taken to have failed to comply with a statutory demand under the Corporations Act 2001 (Cth);
- (g) a party or any Related Body Corporate taking any step to obtain protection or is granted protection from its creditors under any applicable legislation or an administrator is appointed to the party or any Related Body Corporate; or

(h) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

“**Freight Rate**” means the rate published by CBH for transporting the Commodity from the Receival Point to the Destination Site within the Nominated Port Zone;

“**Genetically Modified Organism**” has the meaning given to that term in the *Gene Technology Act 2000* (Cth);

“**GST**” 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;

“**GST law**” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“**item**” means an item of the Schedule or corresponding to the Schedule in any verbal offer by the Supplier;

“**LoadNet®**” means CBH’s online grain management interface which is available to registered users at www.cbh.com.au;

“**Net Price**” means the price stated in item 3.1 (“Price by Grade”) of the Schedule adjusted by any relevant Price Variations minus all Charges and the Freight Rate if applicable;

“**Nomination**” means the choice by the Supplier of the Buyer as the person to whom the Supplier wishes to transfer title to grain either online through LoadNet® or CBH Mobile or via the Grower Service Centre.

“**Nominated Port Zone**” means the zone specified in item 4.2 (“Nominated Port Zone”) of the Schedule;

“**Old Season Grain**” means grain that has been harvested and delivered in the Season previous or prior to which the particular grain Nomination or Nominations relates;

“**Price Variations**” means variations in the contract price for the Commodity as a result of variations in the quality of the Commodity within the Receival Standards upon delivery to the Receival Point as set out for wheat, barley, canola, oats, lupins, field peas, lentils or chick peas in the Receival Standards, details of which are available from the Buyer on request;

“**Receiver**” means Co-operative Bulk Handling Ltd;

“**Receival Point**” means any site operated by the Receiver accepting the Commodity within the Nominated Port Zone specified in item 4.2 (“Nominated Port Zone”) in the Schedule;

“**Receival Standards**” has the meaning given in the CBH Delivery and Warehousing Terms;

“**Recipient Created Tax Invoice**” includes any document or record treated by the Commissioner of Taxation as a recipient created tax invoice or as a document entitling a recipient to an input tax credit;

“**Related Bodies Corporate**” has the meaning given to that term in section 50 of the *Corporations Act 2001* (Cth);

“**Schedule**” means the form entitled “Grain Purchase Confirmation” at Schedule A and created and available online through LoadNet® or CBH Mobile;

“**Season**” means the grain harvesting and delivery season, generally commencing on 1 October of one year and ending in February of the following year;

“**Special Conditions**” means the special conditions, other than these terms and conditions (if any) specified in item 5 (“Special Conditions”) of the Schedule;

“**Table**” means the table following on from these terms; and

“**Tonnage**” means the Tonnes that have been contracted between the Buyer and the Seller as specified in item 2.3 (“tonnage”) of the Schedule.

2. OFFER FOR SALE

2.1 The Supplier offers to sell the Commodity to the Buyer free of, all liens and encumbrances, unless otherwise agreed by the Buyer, for the Net Price on these terms and conditions.

2.2 Unless rejected in accordance with clause 2.4, an offer is accepted and a contract is created when:

- (a) a Contract Number is displayed in **LoadNet®** or CBH Mobile; or
- (b) an email or fax from the Supplier containing all of the information required in Part A – Schedule “Grain Purchase Confirmation” is received by the Buyer; or
- (c) the Supplier’s authorised representative signs Part B – Execution of the “Grain Purchase Confirmation” and it is received by the Buyer.

2.3 Other than providing details of this Contract on **LoadNet®** or CBH Mobile, the Buyer is not obliged to further communicate its acceptance of the offer to the Supplier.

2.4 The offer in this clause 2 (“Offer for Sale”) remains open for acceptance by the Buyer until rejected in writing by the Buyer or 4:30pm WST on the day on which the offer is made by the Supplier in accordance with clause 2.1, whichever is earlier.

3. NOT USED

4. PAYMENT

4.1 Subject to clauses 4.2, 4.3 and 4.6 below, the Buyer must pay the Net Price to the Supplier within 3 clear Business Days following the Buyer’s

- receipt of the electronic file from the Receiver containing the details of the grain load(s) Nominated to the Buyer by the Supplier.
- 4.2 In the event the Contract relates to Old Season Grain, subject to clauses 4.3 and 4.6, the Buyer must pay the Net Price to the Supplier within 7 clear Business Days following the Buyer's receipt of the electronic file from the Receiver containing the details of the grain load(s) Nominated to the Buyer by the Supplier.
- 4.3 If there are:
- outstanding liens or encumbrances affecting the Commodity at the time of Nomination;
 - liquidated damages owing under clause 8 ("Default");
 - any other monies or liabilities due to the Buyer or CBH by the Supplier on any account; or
 - any outstanding CBH Debt, ("**Money Owing**") the Buyer may deduct the Money Owing from the Net Price.
- 4.4 Interest
- Subject to clause 4.4(b), if any payment is not made by the Buyer to the Supplier within 7 days after the due date for payment, interest at the Interest Rate, shall be payable on such sum calculated daily from the due date for payment until payment (including payment of the interest) is made;
 - Interest pursuant to clause 4.4(a) will not be payable by the Buyer if the following circumstances directly contribute to the failure of the Buyer to pay in accordance with the Contract:
 - the Supplier fails to provide up to date account details for payment to the Buyer; or
 - amendments are made to the original Contract which have the effect of altering the due date for payment.
- 4.5 Withholding Funds
- If the Supplier has a potential liability to the Buyer or any of its Related Bodies Corporate under any other contract, to the extent the Supplier makes a request to the Buyer, the Buyer may in its discretion and notwithstanding any other provision of this Contract retain an amount equivalent to the Supplier's potential liability until such time as the Supplier's potential liability has either:
- crystallised and been paid; or
 - ceased to exist.
- 4.6 Right of set off
- Subject to these terms and conditions, any amounts owing by the Buyer or any of its Related Bodies Corporate to the Supplier whether under this Contract or otherwise, may, at the election of the Buyer, be set off against any amounts owing by the Supplier to the Buyer or any of its Related Bodies Corporate, whether under this Contract or otherwise provided that the Buyer will give the Supplier prior written notice of its intention to effect any set-off together with sufficient details to allow the Supplier to identify the amounts to be set-off. The Buyer holds the benefit of this clause and may exercise the rights under this clause on its own behalf and for and on behalf of each of its Related Bodies Corporate but nothing in this clause obliges the Related Bodies Corporate to perform any of the obligations of the Buyer under this Contract.
- 4.7 If the Seller requests payment by cheque, the Buyer is unable to ensure that the cheque will be received within 7 Business Days after the date of the Supplier's Nomination.
- 5. NOT USED**
- 6. DELIVERY**
- 6.1 The Supplier must, within the Delivery Period, deliver the Commodity to the Receiver at a Receiving Point in the Nominated Port Zone specified in item 4.2 ("Nominated Port Zone") of the Schedule and make a Nomination to the Buyer at the Destination Site specified in item 4.3 ("Destination Site") of the Schedule quoting the number of this Contract. Risk in the Commodity passes to the Receiver upon delivery.
- 6.2 Delivery is deemed to occur at the time recorded by the Receiver that title to the Commodity is transferred from the Supplier to the Buyer (and the Buyer will take reasonable steps to ensure that the Receiver promptly makes that recording).
- 6.3 Prior to the Supplier's Nomination and whenever the Supplier delivers the Commodity to a Receiving Point, the Receiver may examine the Commodity to determine whether it satisfies the Receival Standards. The Supplier must do all things necessary to facilitate the Receiver's examination of the Commodity.
- 6.4 Deliveries which:
- are Nominated outside of the Delivery Period;
 - do not comply with the Commodity description;
 - do not comply with the Receival Standards; or
 - are not delivered within the nominated Port Zone and to the nominated Destination Site;
- are not deliveries for the purposes of this Contract.
- 6.5 The Supplier must pay all costs incurred in delivering the Commodity to the Destination Site or any alternative Receiving Point.
- 6.6 The weighbridge weights, and the unconditional certification of compliance with the Receival Standards by the Receiver, are final and binding.
- 7. NOT USED**
- 8. DEFAULT**
- 8.1 Failure to deliver the Commodity in accordance with the terms and conditions of the Contract is a default by the Supplier.
- 8.2 If the Supplier defaults under this Contract and the Net Price is less than the Actual or Estimated Price, the Buyer may recover liquidated damages from the Supplier in an amount equal to the difference between the Net Price and the Actual or Estimated Price multiplied by the total shortfall in tonnes not delivered by the Supplier (calculated on the basis of the tonnage specified in item 2.3 ("Tonnage") of the Schedule, and not taking into account any tolerance specified in item 2.4 ("Tolerance") of the Schedule), the relevant Actual or Estimated Price being either at the time the Supplier advises the Buyer of the default or, in the absence of advice, on the next Business Day following the end of the Delivery Period.
- 8.3 Liquidated damages payable in accordance with clause 8.2 for multigrade contracts will be determined on: the BFD1 price for barley contracts; the ANW1 price for Noodle Multigrades, the APW1 price for all other wheat multi-grade contracts; the OAT2 price for oat contracts; the standard grade for canola, lupin, field pea, lentils, chick peas and faba bean contracts.
- 8.4 The parties acknowledge that the liquidated damages in clause 8.2 represent an accurate estimate of the loss that the Buyer is likely to suffer if the Supplier is in default.
- 8.5 If the Supplier defaults under this contract the Buyer has the right to not enter into further contracts with the Supplier.
- 8.6 The Supplier must pay interest on all amounts owing to the Buyer on any invoice that remains outstanding at the Interest Rate.
- 8.7 Interest will be calculated daily from the due date expressed in the invoice, until all amounts owing on the invoice, including interest, have been paid.
- 8.8 Payments by the Supplier marked specifically for a particular invoice will be applied by the Buyer firstly in reduction of the interest outstanding and accruing on the invoice and then on any amount outstanding on the invoice.
- 8.9 Any expenses reasonably incurred by the Buyer in recovering outstanding monies owing to it under this Contract shall be paid in full by the Supplier.
- 8.10 Any expenses reasonably incurred by the Supplier in recovering outstanding monies owing to it under this Contract shall be paid in full by the Buyer.
- 8.11 The Buyer will not be entitled to recover under this clause any liability incurred as a result of its gross negligence, wilful default or fraud.
- 8.12 The Buyer will not be entitled to recover under this clause any amount for which it receives compensation under any other provision of the Contract.
- 9. TITLE**
- 9.1 Title and ownership of the Commodity passes to the Buyer immediately upon the Seller's Nomination in accordance with the terms of this Contract.
- 10. ELECTRONIC TRANSACTIONS AND COUNTERPARTS**
- 10.1 This Contract may be signed and delivered electronically. The words "execute," "execution," "signed," "signature," and similar words used in this Contract will be deemed to include electronic signatures, and electronic signatures will be of the same legal effect, validity or enforceability as provided for in any applicable law.
- 10.2 Without limiting clause 10.1, the Supplier may elect to execute this Contract and return a copy to the Buyer or, in its sole discretion, appoint a CBH representative as its agent solely for the purpose of electronically executing the Contract. In appointing the agent the Supplier acknowledges and agrees that:
- during all discussions with the Supplier, the CBH representative is acting as the agent for the Buyer for the purpose of negotiating the Contract and facilitating execution of the agreement;
 - the CBH representative only acts as agent for the Supplier on conclusion of the negotiations and when the Supplier has made its own independent decision to enter into the Contract;
 - the CBH representative has no duty to explain any terms of the Contract to the Supplier and the Supplier has obtained its own legal and commercial advice as to the terms of the Contract; and
 - the CBH representative is appointed for the exclusive purpose of signing the Contract electronically on the Supplier's behalf.
- 10.3 This Contract may be executed in any number of counterparts and by the Parties in separate counterparts. Each counterpart constitutes an original of the Contract, and all together constitutes one Contract.
- 10.4 The counterparts of this Contract may be signed and delivered electronically in accordance with clause 10.1.
- 10.5 The Supplier agrees and acknowledges that:

- a. it is the Supplier's responsibility to:
 - (1) provide the Buyer with true, accurate and complete personal information (including, without limitation, e-mail address and mobile phone number); and
 - (2) notify the Buyer immediately upon becoming aware of any change to that information, or of any actual or suspected breach of security of that personal information (including unauthorised access of the Supplier's email account or mobile phone, or that a mobile phone has been lost, stolen or misused) or that an unauthorised transaction has occurred;
 - b. the Buyer will rely on the information provided by the Supplier in accordance with this clause 10 for the purposes of entering into this Contract; and
 - c. without limiting any other right of the Buyer under this Contract, the Supplier will be liable for losses suffered by the Buyer caused by the Supplier's failure to comply with this clause 10 or resulting from any unauthorised transaction caused by the Supplier voluntarily disclosing its personal information to anyone, keeping a record of that personal information without making a reasonable attempt to disguise it or preventing unauthorised access to it, or acting with extreme carelessness in failing to protect that information.
- 10.6 The Buyer may, at its discretion, refuse an instruction, confirmation or other communication received from the Supplier via electronic communication (whether by email, online, SMS or other form of electronic message), in which case the Buyer may require the Supplier to verify the instruction, confirmation or other communication by another means. Failure by the Supplier to verify the instruction, confirmation or other communication to the Buyer's satisfaction will give rise to a right of the Buyer to declare null and void any transaction purported to be entered into by the Supplier.

11. SUPPLIER'S WARRANTIES AND INDEMNITIES

11.1 Warranties

The Supplier warrants to the Buyer that:

- a. the Commodity meets the Receival Standards;
- b. the Commodity is not contaminated with pesticides or herbicides;
- c. in entering into the Contract it has relied on its own skill and judgment;
- d. subject to clause 11.1(e), other than as notified to the Buyer, and agreed in writing by the Buyer, prior to the Supplier's Nomination, the grain delivered does not contain Genetically Modified Material;
- e. where a Receival Standard permits a specified low-level presence of Genetically Modified Organism, the representation and warranty under clause 11.1(d) is taken to be a representation and warranty that the grain will not contain Genetically Modified Organism in excess of the level specified under the Receival Standard.
- f. it has not relied in any way on the Buyer's skill or judgment; and
- g. it has not relied in any way on any representation made by the Buyer other than a representation expressly stated in this agreement or a representation that is implied by a law that may not be excluded and it has not relied upon any descriptions, illustrations, specifications or information contained in any other documents.

The Supplier acknowledges that the Buyer, in entering into the Contract, and providing equivalent services to other persons, is relying on the accuracy of the warranties given by the Supplier in this clause 11.1. If any warranty is not correct at the time it is made or when it is deemed to be repeated, by reference to the facts and circumstances then subsisting, the Buyer may not be able to provide some part or all of the services to the Supplier under the Contract, or equivalent services, and may otherwise suffer loss or damage.

11.2 Indemnities

The Supplier agrees to indemnify the Buyer (and its Related Bodies Corporate) from and against all actions, claims, causes of action (whether in contract, tort or statute), proceedings, demands, losses, liabilities, damages, costs or expenses the Buyer (or its Related Bodies Corporate) suffers as a direct result of:

- a. having regard to clause 11.1, any of the warranties set out in clause 11.1 being false, incorrect or misleading (whether by omission or otherwise);
- b. a person claiming an interest in the Commodity regardless of whether the Supplier has notified the Buyer of that claim other than as a result of the actions of the Buyer; and
- c. any breach of this Contract, including but not limited to a failure to meet the Receival Standards.

The indemnity in this clause 11.2 does not apply to any actions, claims, causes of action (whether in contract, tort or statute), proceedings, demands, losses, liabilities, damages, costs and expenses the Buyer (or its Related Bodies Corporate) suffer as a result of the Buyer's (or

its Related Bodies Corporate) gross negligence, wilful misconduct or fraud.

12. AUTHORITY

- 12.1 Each party warrants that it has the authority and power to enter into this Contract.

13. LIMIT OF LIABILITY

- 13.1 Subject to clause 11.1, neither the Buyer nor the Supplier will, to the fullest extent permitted by law, be under any liability for any indirect or consequential loss, resulting from the Buyer or the Supplier, or any of their servants or agents, in the performance of their obligations under the Contract, however it arises.
- 13.2 Except as provided by law or as expressly set out in any other provision of this Contract, the maximum liability of the Buyer and its Related Bodies Corporate to the Supplier under or in connection with this Contract is limited to the Net Price of the Commodity under this Contract and including any interest that is payable pursuant to clause 4.4.
- 13.3 Except as specified in this Contract, all conditions, warranties and representations, expressed or implied by statute, common law or otherwise, by the Buyer and the Receiver, are excluded to the fullest extent permitted by law.

13A. INSURANCE

On and from the transfer of risk from the Supplier to the Buyer, and until the date that title to the Commodity transfers, the Buyer shall effect and maintain customary insurances including against loss and or damage to the Commodity (in an amount not less than the Actual or Estimated Price of the Commodity) however such loss and or damage may occur.

14. GENERAL

- 14.1 The Buyer, at its discretion, may offer to amalgamate contracts of the same Commodity under one contract number. The contract, when amalgamated, will replace all previous contracts subject to the amalgamation
- 14.2 Time is of the essence in every respect.
- 14.3 This Contract is governed by the laws of Western Australia and the parties submit to the non-exclusive jurisdiction of the Courts of Western Australia and, as applicable, the Commonwealth of Australia.
- 14.4 All notices, requests, demands and other communications under or in connection with this Contract must be in writing, and must be given to the parties at their nominated address specified in item 1, the email address specified in item 1, or as otherwise notified. A notice delivered by hand to the nominated address is deemed to be given when it is delivered to the nominated address. A notice sent by mail to the nominated address is deemed to have been given 10 Business Days after being posted in a properly addressed pre-paid envelope. A notice sent by email to the email address specified in item 1 is deemed to have been given one hour after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered. However, if this means the relevant notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (business hours period), then the Notice will instead be regarded as given and received at the start of the following business hours period. Nothing in this clause shall derogate from the Supplier's waiver of the Buyer's need to communicate acceptance of the Supplier's offer contained in clause 2 ("Offer for Sale").
- 14.5 The Supplier must not assign its rights under, or the benefit of, this Contract without the prior written consent of the Buyer and the payment of the applicable fee set out in the Table. The Buyer must not assign its rights under, or the benefit of, this Contract without the Supplier's prior written consent unless the assignment, transfer or disposal is to any of the Buyer's Related Bodies Corporate.
- 14.6 Liability of Supplier
In this Contract:
 - a. if the Supplier is comprised of more than one person in respect of the delivery title, then the obligations of the Supplier will bind all parties listed on the delivery title jointly and severally;
 - b. if the Supplier enters into this Contract as a trustee, the Supplier shall be liable under this Contract in its personal capacity and in its capacity as trustee of the trust; and
 - c. the Supplier indemnifies the Buyer and each of its directors against any claim, action, damage, loss, liability, cost or charge they may suffer or incur or be liable for as a result of the disclosure by the Supplier of any misleading information in the Schedule or any Carter's Delivery Form (as the case may be), including any false declaration that the Supplier or its signatories had due authority to sign other than where any such liability arises from the Buyer' or its directors gross negligence, wilful misconduct or fraud.
- 14.7 The Supplier acknowledges and agrees that any telephone conversation with the Buyer may be recorded and kept as evidence of the Supplier's instructions unless the Supplier objects at the beginning of the telephone conversation.
- 14.8 Except as otherwise provided in this Contract, this Contract may only be

- varied by agreement in writing.
- 14.9 Except as otherwise provided in this Contract, each party must bear its own legal and other costs and expenses relating to the preparation of, and performance of its obligations under, this Contract.
- 14.10 If any term or part of this Contract is or becomes invalid or unenforceable at law, then that term or part will be deemed to be severed from this Contract. Severance will not affect the remainder of this Contract, and the remainder of this Contract will continue to be valid and enforceable.
- 14.11 Waiver of any power or right arising under this Contract must be in writing and signed by the party granting the waiver. Any failure or delay by a party to exercise a power or right does not operate as a waiver of that power or right.
- 14.12 This Contract forms the entire agreement between the parties in respect to the sale and purchase of the Commodity. For the avoidance of doubt, nothing stated in any document created by a broker which in any way relates to the sale of the Commodity by the Supplier to the Buyer (including any document with a title such as broker contract, broker note, broker confirmation, contract confirmation or confirmation of sale) is of any legal effect.

15. GST

15.1 Defined Terms

Words used in this clause 15 which have a defined meaning in the GST law have the same meaning as in the GST law unless the context otherwise indicates.

15.2 Consideration exclusive of GST

Unless otherwise specified, the Consideration does not include GST.

15.3 Supplier's GST liability

To the extent that the Supplier is required to pay GST on a supply under the Contract:

- a. the Buyer must pay to the Supplier the amount of GST that the Supplier is liable to pay (subject always to the Supplier providing the relevant information to the Buyer); and
- b. the Buyer must give the Supplier:
 - (1) if the Supplier has provided a valid ABN and is registered for GST: a valid Recipient Created Tax Invoice that states the amount of the GST that the Supplier is liable to pay, at the same time that the Buyer is obliged to pay for the supply; or
 - (2) if the Supplier has provided a valid ABN but is not registered for GST: a payment advice setting out the amount paid to the Supplier excluding GST; or
 - (3) if the Supplier has not provided a valid ABN: a payment advice setting out the amount paid to the Supplier excluding GST and subject to any withholding tax in accordance with clause 15.5.

15.4 The Buyer's GST liability

To the extent that the Buyer is required to pay GST on a supply under the Contract:

- a. the Supplier must pay to the Buyer the amount of GST that the Buyer is liable to pay; and
- b. the Buyer must give the Supplier a valid Tax Invoice that states the amount of the GST that the Supplier is liable to pay, at the same time that the Supplier is obliged to pay for the supply.

15.5 Withholding Tax

If the Supplier:

- a. does not have an ABN or does not provide a valid ABN to the Buyer; and
 - b. has not provided an executed Statement by a supplier form to the Buyer,
- the Buyer may be required to withhold 46.5% (or such rate as is prevailing at the time) of the gross supply value by the Australian Taxation Office.

16. INSOLVENCY

- 16.1 Either party may terminate this Contract by providing written notice to the other party where an Insolvency Event occurs in respect of the other party.
- 16.2 Notwithstanding clause 16.1, where the Commodity or part thereof has been delivered under this Contract clauses 4, 9 and 13A of this Contract shall continue to apply and remain in force and effect.

17. DISPUTE RESOLUTION

- 17.1 If a difference or dispute between the Parties arises out of or related to the terms and conditions of this Contract, then any Party (the "Disputer") may give the other Party (the "Disputee") a written notice of dispute adequately identifying and providing details of the dispute ("Notice of Dispute").
- 17.2 Within five Business Days of service of a Notice of Dispute, the

- Disputee must give the Disputer a notice setting out brief details of the Disputee's position on the Dispute ("Reply Notice").
- 17.3 Within a maximum of ten Business Days of service of a Reply Notice, senior representatives from each Party, with authority to settle the dispute, are to meet and use their reasonable endeavours acting in good faith to resolve the dispute by joint discussion.
- 17.4 If the dispute is not resolved within 30 days after the date of the Notice of Dispute, a party may seek to refer the dispute to mediation in accordance with the following procedure:
- a. the mediation shall be conducted before a mediator convened for that purpose;
 - b. the mediation shall be governed by the rules for mediation adopted from time to time by the Resolution Institute of Australia;
 - c. the mediation shall be conducted within 30 days of the referral of the dispute to mediation; and
 - d. while a matter is in dispute, the parties shall continue any activity authorised by this Contract, unless such activity is the subject of the dispute.
- 17.5 If the parties are unable to resolve the dispute following the mediation conducted in accordance with clause 17.4, either party may give notice to the other party to refer the dispute to arbitration in accordance with the Grain Trade Australia Dispute Resolution Rules in force at the date of the notice. Nothing in this clause 17 prevents a party from seeking injunctive or similar interim relief from a court at any time.

Table of GST exclusive fees	
The following GST exclusive fees apply for discretionary services required or utilised by or on behalf of a Supplier:	
Column 1: Service	Column 2: Fee
Third Party PPSR administration and processing	\$250.00 per Season per transaction
Amounts paid by - electronic funds transfer to Supplier's nominated account - cheque drawn to Supplier's order	unlimited free transactions \$12.50 each cheque drawn
Replacement Recipient Created Tax Invoice	\$7.50 per electronic invoice \$10.00 per printed invoice
Duplicate RCTI (i.e. copy to nominated advisor or accountant where original sent to Supplier)	\$125.00 per Season
Notice of assignment of payment to Third Party	\$250 per notice
Correction / Amendment of details provided by the Supplier associated with Notice of assignment of payment to Third Party	\$150 per request