

COLLECTION, TESTING AND DELIVERY POLICY

1. General principles

- 1.1 This Collection, Testing and Delivery Policy governs the supply of the Collection, Testing and Delivery Services by MX to a Buyer where, in relation to a Contract, the Buyer has elected to engage M2M to provide such services, and MX, through its agent M2M, has agreed to provide such services to the Buyer.
- 1.2 Where the Buyer elects to engage MX to provide Collection, Testing and Delivery Services and has notified MX of this election, the Buyer acknowledges that:
- the terms of this Collection, Testing and Delivery Policy form a separate contract between MX and the Buyer for the provision of Collection, Testing and Delivery Services governed by the terms and conditions of this Collection, Testing and Delivery Policy; and
 - the Buyer has read, understood and agrees to be bound by the terms and conditions as specified in this Collection, Testing and Delivery Policy.
- 1.3 In providing the Collection, Testing and Delivery Services, MX will organise the:
- collection of the Dairy Product on each Pickup Date at the Time and Location;
 - if applicable, testing of the Dairy Product in accordance with the testing criteria specified in the Dairy Product Policy; and
 - delivery of the Dairy Product to the Buyer within a time period agreed between MX and the Buyer on a case by case basis.
- 1.4 The Buyer agrees that MX may sub-contract any of its obligations described in this Collection, Testing and Delivery Policy without the consent of the Buyer.
- 1.5 Unless:
- indicated otherwise, the Milk Exchange Terms apply to this Collection, Testing and Delivery Policy; and
 - separately defined in this Collection, Testing and Delivery Policy, capitalised words and phrases adopt the meaning given to them in the Milk Exchange Terms.

2. Fees and charges

The Buyer must pay to MX the Collection Fees, Testing Fees and Pass Through Fees in accordance with the terms of the Payment Policy.

3. Title and Risk

The Buyer acknowledges that in accordance with the terms of the Contract, title and risk in the Dairy Product transfers from the Seller to the Buyer upon the Dairy Product being loaded into the Transporter.

4. Insurance

MX will take out appropriate insurances for the scope of Collection, Delivery and Testing Services contemplated by this Collection, Testing and Delivery Policy.

5. Transporter

- 5.1 The Buyer acknowledges and agrees that the Transporter may not be for the exclusive use of the Buyer and the Dairy Product may be transported with Dairy Product owned by other third parties.
- 5.2 In the event that the Dairy Product is Contaminated by Dairy Product of another third party, and to the extent permissible by Law, MX will not be liable to the Buyer for any resulting Loss unless the Contamination was directly caused by MX's gross negligence, fraud or wilful misconduct.

6. Authority

The Buyer irrevocably appoints MX to act as the Buyer's attorney in respect of any rights that the Buyer has in relation to the acceptance and rejection of Dairy Product as described in the relevant Contract including (without limitation) the right to reject the Dairy Product for a Permitted Reason (as that term is defined in the relevant Contract).

7. Delivery times

MX and the Buyer will agree upon appropriate delivery times for the Dairy Product on a case by case basis depending upon when the Dairy Product is available for pickup (ie. the Time and Location as specified in a Contract).

8. Testing

If applicable, the Buyer agrees that MX (or its subcontractor(s)) will test the Dairy Product according to the testing criteria specified in the Dairy Product Policy.

9. Disclaimer

Subject to clause 5.2, the Buyer acknowledges and agrees that, to the extent permitted by Law (whether in contract, equity, tort or otherwise), MX will not be liable to the Buyer or any other person for defective, Contaminated or out-of-specification Dairy Product.

10. Indemnity

Without limiting any other indemnities provided by the Buyer to MX under the Milk Exchange Terms, the Buyer shall defend, indemnify and hold harmless MX and its Related Bodies Corporate and personnel (the **MX Indemnified Parties**) from and against any Loss suffered or incurred by the MX Indemnified Parties arising out of or in connection with the performance of any Collection, Testing and Delivery Services for the Buyer (including in relation to the collection, testing, delivery and acceptance / rejection of the Dairy Product) provided that the Loss is not suffered as a result of MX's own negligence, wilful misconduct or fraud.

11. Limitation of liability

- 11.1 Where the Buyer suffers Loss in connection with the Collection, Testing and Delivery Services, the Buyer agrees that:
- clause 11.2 of this Collection, Testing and Delivery Policy applies; and

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(b) clause 19(c)(ii) of the Milk Exchange Terms does not apply.

11.2 To the extent permitted by Law, MX's maximum liability (whether in contract, tort, for breach of warranty or otherwise) in relation to each Contract arising out of or in connection with the Collection, Testing and Delivery Services will not exceed an amount equivalent to the sum of the Collection Fees, Testing Fees and Pass Through Fees payable to MX by the Buyer in relation to that Contract.

12. Definitions

The following definitions apply to this Collection, Testing and Delivery Policy:

- (a) **Collection Fees** means the fees incurred by MX, and payable by the Buyer, in MX picking up the Dairy Product and delivering the Dairy Product to the Buyer, such fees to be agreed between MX and the Buyer in writing.
- (b) **Collection, Testing and Delivery Policy** means this collection, testing and delivery policy.
- (c) **Contamination** or **Contaminated** means any Dairy Product which is contaminated by agricultural, veterinary chemicals or any other substance; is otherwise unusable or unfit; or poses a health or safety risk, such that the Buyer, acting reasonably, rejects the Dairy Product on receipt. in accordance with the criteria in the Dairy Product Policy.
- (d) **Dairy Product** means the Dairy Product contracted to be supplied by a Seller to a Buyer on the terms of a Contract.
- (e) **Location** means the location from which the Dairy Product is to be collected, as specified in a Contract.
- (f) **Milk Exchange Terms** means the terms and conditions governing the use of the Milk Exchange available here: www.milkexchange.com.au.
- (g) **Pass Through Fees** means any fees incurred by MX in performing the Collection, Testing and Delivery Services which are not Collection Fees or Testing Fees, as notified by MX to the Buyer.
- (h) **Pickup Date** means a date for pickup of the Dairy Product as specified in a Contract.
- (i) **Testing Fees** means the following fees payable by the Buyer:
 - (i) the courier fees incurred by MX in transporting a sample to the laboratory; and
 - (ii) the laboratory fees incurred by MX in undertaking the tests described in the Dairy Product Policy.
- (j) **Time** means the time for collection of the Dairy Product as specified in a Contract.
- (k) **Transporter** means the vehicle used by MX (or its subcontractor) to collect Dairy Product from the Seller.