

## STANDARD FORM CONTRACT – SUPPLY OF DAIRY PRODUCT

The Buyer has agreed to purchase the Dairy Product from the Seller, and the Seller has agreed to sell the Dairy Product, on the terms and conditions set out in this Contract (**Contract**).

### TERMS AND CONDITIONS

1. **(Acceptance) By:**
  - 1.1 accepting an Offer for the supply or receipt of Dairy Product on the Milk Exchange; or
  - 1.2 uploading an Offer for the supply or receipt of Dairy Product to the Milk Exchange,

each party agrees to be bound by the terms of this Contract and acknowledges that it has read and understood the terms of this Contract.
2. **(Sale and Purchase)** On each Pickup Date, the Seller must transfer to the Buyer the Dairy Product in accordance with the terms of this Contract and the Buyer will pay the relevant Dairy Product Price to the Seller in accordance with clause 10.
3. **(Term)** Subject to clauses 4 and 5, this Contract commences on the Commencement Date and terminates on the End Date (the **Term**).
4. **(Cooling-off period)** Where this Contract is for the supply of Farm Milk, the Seller may terminate this Contract within 14 days of the Commencement Date without incurring any liability to the Buyer.
5. **(Extension)** Where this Contract is for the supply of Farm Milk, if the Term is for a period which is longer than three (3) years, then:
  - (a) no earlier than 30 days before the End Date; and
  - (b) no later than 7 days after the End Date,

the Seller may postpone the expiry of this Contract by 12 months.
6. **(Obligations on pickup)**
  - 6.1 Prior to each Pickup Date, the Seller must immediately notify the Buyer of any circumstances that may affect the Seller's ability to have the Dairy Product available (including being available to the Dairy Product Specifications), on the Pickup Date.
  - 6.2 On each Pickup Date, the Seller must permit the Buyer (or the Buyer's nominee) possession of the Dairy Product at the Time and Location.
  - 6.3 The Seller must provide the Buyer (or the Buyer's Nominee) reasonable access to the Location in order to facilitate Collection.
7. **(Pickup)**
  - 7.1 Where this Contract is for the supply of Farm Milk, the Buyer must:
    - (a) collect the Farm Milk itself at the Time and Location on each Pickup Date, or some other time and place as the parties may agree in writing; or
    - (b) subcontract the Collection of the Farm Milk to a Buyer's Nominee at the Time and Location on each Pickup Date, or such other time and location as the parties may agree in writing.
  - 7.2 Where Dairy Product has been rejected by the Buyer (or the Buyer's Nominee) for a Permitted Reason, the Seller will, without prejudice to the Buyer's general law rights, be indebted to the Buyer for the costs incurred by the Buyer in connection with the attempted Collection and / or disposal of the Dairy Product. Where the Buyer rejects the Dairy Product, the Buyer agrees to provide written notice of the rejection to the Seller including the reasons for the rejection and the consequences for the Seller of such rejection (including any fees payable by the Seller for matters arising as a result of the rejection).
8. **(Title and Risk)**

The title to and risk in the Dairy Product transfers to the Buyer upon Collection of the Dairy Product.
9. **(Laws and Legal Requirements)**
  - 9.1 **(Legal and Contractual Compliance)** The Seller must:
    - (a) ensure the Dairy Product complies with all Laws;
    - (b) ensure the Dairy Product complies with the Dairy Product Policy; and
    - (c) obtain all required licences, permits, approvals, certificates and other required authorisations (including any export or import approvals), necessary to perform this Contract.
10. **(Dairy Product Price)**
  - 10.1 The Buyer must pay the Seller the Dairy Product Price in accordance with the Payment Policy. The parties agree and acknowledge that the payment and remittance of the Dairy Product Price is governed by the Payment Policy.
  - 10.2 The Seller acknowledges and agrees that:
    - (a) the Dairy Product Price may be adjusted in accordance with the Payment Policy for quality and / or quantity issues which become apparent as a result of Testing; and
    - (b) payment by the Buyer in accordance with the terms and conditions of the Payment Policy discharges its payment obligations under this Contract.
  - 10.3 The parties acknowledge and agree that:
    - (a) Where this Contract is for the supply of Dairy Product other than Farm Milk, within 7 days of Collection, where there is a single Collection, or at the end of each calendar month, the Seller will calculate and produce an invoice for the Dairy Product supplied in accordance with the Payment Policy; and
    - (b) Where this Contract is for the supply of Farm Milk, at the end of each calendar month, MX, or the Buyer where MX is not acting as agent of the Buyer, will calculate and produce a RCTI on behalf of the Seller for the Dairy Product supplied in accordance with the Payment Policy.
  - 10.4 **(GST excluded)** The Dairy Product Price is exclusive of all taxes including GST.
  - 10.5 **(Taxes)** The Buyer is responsible for and must pay all taxes including GST on or relating to this Contract, any dutiable transaction evidenced or effect by it, or the Dairy Product.
11. **(Seller Warranties)** The Seller warrants that the Dairy Product will:
  - 11.1 conform to the Dairy Product Specifications;
  - 11.2 be of merchantable quality; and
  - 11.3 be free and clear of all defects, liens, charges or encumbrances.
12. **(Conduct)** Each party agrees, at all times and in all matters contemplated by this Contract, to act in good faith. For the purposes of this clause 12, where this Contract is for the supply of Farm Milk, acting in 'good faith' will be determined by giving consideration to the matters described in section 11(4) of the Code.
13. **(Indirect loss)** To the maximum extent permitted by Law (including the Australian Consumer Law), neither party is liable for any indirect loss suffered in connection with this Contract or the Dairy Product, whether arising under contract, tort (including negligence), statute, equity or otherwise.
14. **(Warranties)** Each party warrants to the other that:
  - 14.1 it has full power and authority to enter into this Contract;

- 14.2 it has taken all necessary action to authorise the execution, delivery and performance of this Contract in accordance with its terms;
- 14.3 this Contract constitutes a legally valid and binding obligation of the Buyer enforceable in accordance with its terms; and
- 14.4 the execution, delivery and performance of this Contract by a party does not violate any provision of any Law or any encumbrance or document which is binding on that party.
15. **(Complaints process and mediation)**
- 15.1 The parties must comply with the complaints process specified in this clause 15 before taking action to resolve the complaint by mediation.
- 15.2 If a party has a complaint (the **complainant**) in relation to a matter arising under or in connection with this Contract, the parties agree to resolve that complaint in accordance with this clause 15.
- 15.3 If the complainant has a matter that it wishes to raise with the other party, the complainant must notify the other party to this Contract (the **respondent**), in writing, of the following:
- the nature of the complaint;
  - that the complainant wishes the complaint to be dealt with in accordance with the process specified in this clause 15; and
  - the outcome the complainant wants.
- 15.4 Within 5 Business Days after receiving notice of the complaint under clause 15.3, the respondent must give a written acknowledgement to the complainant stating:
- that notice of the complainant has been received; and
  - the steps to be taken to deal with the complainant.
- 15.5 Within 20 Business Days of the complainant receiving the notice specified in clause 15.4 from the respondent, authorised representatives of the parties must meet to discuss the details of the complaint.
- 15.6 If the complaint is not resolved in accordance with this clause 15 within 60 days after the acknowledgement was given to the complainant under clause 15.4, either party may take action to have the complaint resolved by mediation.
- 15.7 If either party elects to have the complaint resolved via mediation, and this Contract is for the sale of Farm Milk, the parties agree to conduct that mediation in accordance with section 48, 49 and 50 of the Code.
16. **(Assignment)** Neither party may assign or novate this Contract in whole or part without obtaining the prior written consent of the other party.
17. **(Notices)** Any notice, demand, consent or other communication (a **Notice**) given or made under this Contract:
- must be in writing and signed by a person duly authorised by the sender; and
  - must be delivered to the intended recipient by hand or by prepaid post or email to the email address or address set out in Schedule 1 (or as last notified by the intended recipient by the sender).
18. **(General)**
- 18.1 **(Variation)** The parties agree to vary the terms of this Contract as agreed in Item 8 of Schedule 1.
- 18.2 **(Jurisdiction)** This Contract is governed by the laws of the State of Victoria. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Contract.
- 18.3 **(Surviving Provisions)** The covenants, conditions and provisions of this Contract which are intended or capable of having effect after the expiration or termination of this Contract (including provisions relating to warranties and liability) must remain in full force and effect following any expiration or termination of this Contract.
- 18.4 **(Entire Agreement)** This Contract is the entire agreement between the parties in relation to its subject matter.
- 18.5 **(Severability)** If any part of this Contract is invalid or unenforceable, that part will (if possible) be read down to the extent necessary to avoid the invalidity or unenforceability, or alternatively will be deemed deleted and this Contract will remain otherwise in full force.
- 18.6 **(Single document)** This Contract including all of its attachments and schedules are taken to be one single document. Notwithstanding anything to the contrary, the Schedules, as applicable to the Buyer and Seller, will apply to this Contract as at the Commencement Date.
19. **(Definitions)**
- The following definitions apply to this Contract.
- 19.1 **(Australian Consumer Law)** means the Australian Consumer Law as set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth).
- 19.2 **(Business Day)** means a day that is not a Saturday, Sunday or public holiday in Melbourne Victoria.
- 19.3 **(Buyer)** means the buyer specified in Item 9 of Schedule 1.
- 19.4 **(Buyer's Nominee)** means a third party the Buyer contracts to test, accept and deliver the Dairy Product to the Buyer which must be a third party licensed to test, accept and deliver Dairy Product to the Buyer.
- 19.5 **(Code)** means the Competition and Consumer (Industry Codes – Dairy) Regulation 2019.
- 19.6 **(Collection)** means the loading of Dairy Product into a Transporter.
- 19.7 **(Commencement Date)** means the date specified in Item 2 of Schedule 1.
- 19.8 **(Contamination)** 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.
- 19.9 **(Contract Price)** means the total price payable for Dairy product to be supplied under this Contract and described in Item 6 of Schedule 1.
- 19.10 **(Dairy Product)** means the dairy product supplied under this Contract with the specifications described in Item 4 of Schedule 1.
- 19.11 **(Dairy Product Policy)** means the policy attached to this Contract and marked Schedule 2 governing the specific requirements of any Dairy Product supplied to the Buyer on the Milk Exchange including quality, collection and testing of Dairy Product, storage of Dairy Product, animal welfare, workplace health and safety and environmental management.
- 19.12 **(Dairy Product Price)** means the price payable for the Dairy product under this Contract specified in Item 6 of Schedule 1 adjusted in accordance with the Payment Policy.
- 19.13 **(Dairy Product Specifications)** means the specifications described in Item 4 of Schedule 1.
- 19.14 **(End Date)** means the date specified in Item 2 of Schedule 1.
- 19.15 **(Farm Milk)** means Raw Milk harvested directly from dairy cattle on a dairy farm.
- 19.16 **(GST Law)** GST Law has the meaning given to it in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 19.17 **(Law)** applicable law, statute, regulation, by law, ordinance or subordinate legislation in force from time to time, whether made by a State, Territory, Commonwealth, or a local government, and includes common law and the principles of equity as applicable from time to time, and any applicable legally binding industry codes of conduct.
- 19.18 **(Location)** means the location specified in Item 5 of Schedule 1.
- 19.19 **(Milk Exchange)** means the online marketplace known as "Milk Exchange" found at [www.milkexchange.com.au](http://www.milkexchange.com.au) (or another designated URL) that provides a venue for parties to enter into a Dairy Product sale and purchase agreement.

- 19.20 (**MX**) means Milk Exchange Pty Ltd ACN 642 719 971.
- 19.21 (**Offer**) means an offer for the supply or receipt of Dairy Product substantially in the form of Schedule 1 which the Buyer or Seller uploaded to the Milk Exchange with the intention of entering into a contract for the ongoing supply of Dairy Product in accordance with the terms of this Contract.
- 19.22 (**Particulars**) means the details agreed between the parties substantially in the form of Schedule 1, which informs the terms and conditions of this Contract for the ongoing supply of Dairy Product to the Buyer by the Seller including the Term, Dairy Product Specifications, Quantity and Dairy Product Price.
- 19.23 (**Payment Policy**) means the policy attached to this Contract and marked Schedule 3 governing:
- (a) the remittance to the Seller of the Seller's proceeds from a sale of Dairy Product under this Contract; and
  - (b) payment of Fees by the Buyer.
- 19.24 (**Permitted Reason**) means any Contamination of the Dairy Product.
- 19.25 (**Pickup Date**) means a date specified in Item 3 of Schedule 1.
- 19.26 (**Quality Standards**) means the standards of Dairy Product supply described in the Dairy Product Policy.
- 19.27 (**Quality Requirements**) means those minimum requirements for the supply of Dairy Product described in the Dairy Product Policy.
- 19.28 (**Raw Milk**) means Dairy Product in the form of unprocessed or unpasteurised raw milk.
- 19.29 (**RCTI**) means a recipient created tax invoice which includes GST.
- 19.30 (**Seller**) means the seller identified in Item 1 of Schedule 1.
- 19.31 (**Tax Invoice**) Tax invoice has the meaning given to it in GST Law.
- 19.32 (**Term**) has the meaning given to that term in clause 3.
- 19.33 (**Testing**) means the tests specified in the Dairy Product Policy which are to occur once Collection has occurred in order to identify any defects in quality and / or quantity of the Dairy Product which may result in a reduction in the Contract Price as per the terms and conditions of the Payment Policy.
- 19.34 (**Time**) means the time specified in Item 5 of Schedule 1.
- 19.35 (**Transporter**) means the vehicle collecting the Dairy Product.
20. (**Interpretation**)
- In interpreting this Contract:
- 20.1 capitalised terms have the meaning given to them in this Contract;
  - 20.2 singular includes plural and vice versa;
  - 20.3 a party includes its successors and permitted assigns;
  - 20.4 headings are for convenience only and will not affect interpretation;
  - 20.5 reference to "legal expenses" includes legal costs on a solicitor and own client basis;
  - 20.6 "day" or "month" means calendar day or month respectively; and
  - 20.7 "\$" means Australian dollars.

## SCHEDULE 1

### SELLER TEMPLATE PARTICULARS

<b>Item 1: Seller</b>	Name	Seller Name
	ACN/ABN:	Seller ABN
	Address:	Seller Address
	Email:	Seller Email
	Representative:	Seller Representative
<b>Item 2: Commencement Date and End Date</b>	Commencement Date	Commencement Date
	End Date	End Date
<b>Item 3: Pickup Date(s)</b>	First Pick up date	First Pickup Date
	Monthly quantities	Monthly Quantities
<b>Item 4: Dairy Product Quantity &amp; Specifications</b>	Dairy Product	Dairy Product
	Quantity	Quantity
	Characteristics	Characteristics
	Specifications	Specifications
	Other Details	Other Details
<b>Item 5: Pickup Time and Location</b>	Location	Location
	Time	Pickup Time
<b>Item 6: Contract Price</b>	Dairy Product Price	Dairy Product Price
	Contract Price	Contract Price
<b>Item 7: Payment details</b>	Ownership share of monthly payment	Ownership Share of Monthly Payment
<b>Item 8: Contract variations</b>	Variations	

### BUYER TEMPLATE PARTICULARS

<b>Item 9: Buyer</b>	Name	Buyer Name
	ACN/ABN:	Buyer ABN
	Address:	Buyer Address
	Email:	Buyer Email
	Representative:	Buyer Representative
<b>Item 10: RCTI Services</b>	Provided through MX	RCTI Services
<b>Item 11: Collection, Testing and Delivery Services</b>	Provided through MX	Collection Services

## SCHEDULE 2

### DAIRY PRODUCT POLICY

#### 21. General principles

- 21.1 This Product Policy governs the specific requirements, and the Seller's minimum obligations, with respect to any Dairy Product offered for sale on the Milk Exchange including Dairy Product quality, collection and testing of Dairy Product, storage of Dairy Product, animal welfare, workplace health and safety and environmental management.
- 21.2 Unless separately defined in this Dairy Product Policy, capitalised words and phrases adopt the meaning given to them in the Milk Exchange Terms.
- 21.3 It is a condition of the offering for sale of Dairy Product on the Milk Exchange that the Seller complies with all applicable legislation, regulations and accepted industry practices for:
- the production, storage and supply of Dairy Product;
  - animal health, welfare and husbandry;
  - environmental management and stewardship;
  - occupational health and safety; and
  - Farm Milk quality.
- 21.4 The following principles and procedures will apply to the sale, or offering for sale, of Dairy Product on the Milk Exchange.
- If MX suspects that the Seller is in breach of clause 21.3, MX may (in its sole discretion) issue a show cause notice to the Seller.
  - If the Seller receives a show cause notice referred to in clause 21.4(a), the Seller must within five (5) Business Days, show cause to MX as to why MX should not suspend the Seller from acting as a "Seller" on the Milk Exchange.
  - After receiving the Seller's response to the show cause notice (or if no response is received within five (5) Business Days), MX may, in its sole discretion, suspend the Seller's right to act as a "Seller" on the Milk Exchange for a period of time to be determined by MX. If MX exercises this suspension right, the suspension will only lift if MX is satisfied, in its sole discretion, that the Seller has demonstrated compliance with the requirements in clause 21.3.
  - The minimum supply requirement for Farm Milk supplied in accordance with a Contract is 400 litres for each batch of Farm Milk collected by the Buyer (or a representative of the Buyer). Farm Milk must only be sold on the Milk Exchange if the dairy farm from which the Farm Milk is harvested is licensed to produce Farm Milk and has an approved on-farm quality assurance program.
  - All States and Territories require a dairy farm to have an approved and audited 'Food Safety Program'. Sellers of Farm Milk must comply with all applicable state (or territory) legislation governing the 'Food Safety Program' including with respect to all auditing requirements by, or on behalf of, the relevant State authority.

#### 22. Testing & Quality

##### 22.1 MX's Collection, Testing and Delivery Services

- As per the Milk Exchange Terms, a Buyer may engage MX to conduct Collection, Testing and Delivery Services on the Buyer's behalf.

- Where MX is engaged to provide Collection, Delivery and Testing Services:

- MX will (as at the date of this policy) engage M2M to arrange independent testing; and
- MX or its subcontractor will provide the services as described in the remainder of this clause 22, including the testing of the Dairy Product in accordance with the Quality Requirements and Quality Standards.

- If the Buyer does not engage MX to conduct Collection, Testing and Delivery Services to Buyer, but instead nominates that the testing of Dairy Product is to be conducted by the Buyer or a Buyer's Nominee (as that term is defined in the Payment Policy), the Buyer must test the Dairy Product in accordance with the Quality Requirements and Quality Standards and provide the Testing Data to MX in accordance with the Payment Policy where MX is providing RCTI Services.

##### 22.2 Process of Testing Farm Milk

The following applies where the Contract is for the supply of Farm Milk.

- Before pumping Farm Milk into the Transporter, the driver will agitate the vat of Farm Milk for at least two minutes (or five minutes for silos) to ensure an adequate distribution of components throughout the Farm Milk. On arrival at the testing facility, the sample will be measured for milk fat and true protein percentage. This sample is also used for Bulk Milk Cell Count (BMCC) testing.
- Samples taken for quality testing (excluding BMCC) are generally taken as either a dip sample directly from the Seller's vat after the required agitation process or a drip sample as the Farm Milk is transferred from the Sellers vat to the Transporter.

##### 22.3 Testing Results

- The Buyer will not be required to pay for Dairy Product which is rejected according to the terms and conditions of the Standard Form Contract which will be entered into between a Buyer and a Seller and will govern the ongoing supply of Dairy Product.
- Upon receiving the Testing Data and where MX is engaged to conduct Collection, Testing and Delivery Services on behalf of the Buyer, MX will use reasonable endeavours to provide early notification to the Seller of any out-of-the-ordinary results arising from the testing conducted by MX (or a subcontractor of MX).

##### 22.4 Contamination

For the purposes of the Payment Policy, the Collection, Testing and Delivery Policy and the Standard Form Contract, Dairy Product will be 'Contaminated' if the Dairy Product:

- 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.

##### 22.5 Collection of Farm Milk

Where the Contract is for the supply of Farm Milk which is not intended for collection by a Transporter (including colostrum vats or tanks) must be clearly labelled "**NOT FOR COLLECTION**". The Seller must ensure any Farm

Milk not intended for collection is clearly labelled prior to the next scheduled collection of Farm Milk.

#### 22.6 Age of Farm Milk Product

The following applies where the Contract is for the supply of Farm Milk.

- (a) The Seller must advise the driver of the Transporter if the Farm Milk marked for collection has been harvested in excess of 48 hours prior to collection. The Seller will ensure that Farm Milk which has been harvested in excess of 48 hours prior to collection will not be made available for collection by the Buyer unless the Seller has obtained the written consent of the Buyer. If the Seller has not received such written consent, the Farm Milk will be deemed to be 'Contaminated' and, in accordance with the Contract, a Buyer (or the Buyer's representative collecting the Farm Milk) may reject the Farm Milk. GMO
- (b) MX's general policy is to avoid the use of genetically engineered (GE) or genetically modified (GM) materials whenever possible. In the case of Farm Milk, MX's preference is that Sellers avoid GE / GM feed for their cows whenever possible.

#### 22.7 Transporter Access

The following applies where the Contract is for the supply of Farm Milk where MX is providing Collection Testing and Delivery Services.

- (a) To reduce the instances of possible damage to or loss of Farm Milk, MX relies on the Seller to advise the Transporter driver if there are any reasons which would prevent or restrict the Transporter access to the Seller's property.
- (b) Any access road which leads from the property front entrance to the dairy turnaround area must be free of obstacles (which include farm equipment, cars, push bikes, or anything which may inhibit the free operation of the Farm Milk collection process).
- (c) Cattle or any other livestock must also be excluded from any driveway or turnaround area. This is not only a safety issue, but also a potential food safety issue, as there are aspects which could see the transfer of disease from one farm to another via trucks if there are animals or their waste on the Transporter.
- (d) Sellers must ensure they provide 24 hour all-weather access to their property. This includes ensuring that any bridges on or leading to the farm are structurally sound and can bear the load of the Transporter.

#### 22.8 Quality Standards and Quality Requirements

- (a) As per the terms of the Payment Policy, the Buyer and the Seller will contract for Dairy Product to be supplied to the Quality Standards.
- (b) The Seller must always comply with the minimum Quality Requirements.
- (c) Deductions might be made to fees pre-agreed between a Buyer and a Seller to take into consideration quality and quantity issues, in accordance with the Payment Policy.

#### 23. Animal Health and Welfare

The following applies where the Contract is for the supply of Farm Milk.

- 23.1 MX strongly supports the Australian dairy industry position on animal welfare. The Seller must ensure that animals are managed in a manner which prevents the introduction of any contaminants in the milk or which would in any way create any hazards in the Farm Milk. Single occurrences of animals exhibiting any unusual

symptoms of disease, suspect behaviour or unexplained deaths may simply be part of normal farm operations. However, it is the Seller's responsibility to assess the situation and, where relevant, report circumstances to the relevant authorities.

- 23.2 Any cows showing signs of illness must be immediately removed from the milking herd to ensure that their milk is not mixed in with milk from healthy animals. The Seller should keep suspect animals isolated and contained.
- 23.3 Some diseases and hazards to check for include:
  - (a) foot and mouth disease;
  - (b) botulism;
  - (c) pesticide poisoning; and
  - (d) poisonous plants.
- 23.4 Farm Milk which originates from cows which are affected by any of the diseases or hazards described in clause 23.3 will be treated as 'Contaminated' for the purpose of this policy, the Payment Policy, the Collection, Testing and Delivery Policy and the Standard Form Contract. The Australian dairy industry has developed the *National Dairy Industry Animal Welfare Strategy* to support the Australian government's vision under the Australian Animal Welfare Strategy that "the welfare of all animals in Australia is promoted and protected by the development and adoption of sound animal welfare standards and practices". Standards and guidelines titled the *Australian Animal Welfare Standards and Guidelines for Cattle – A Guide for Dairy Farmers (January 2017) (Guidelines)* have been developed by the Australian and state governments in consultation with Australian Dairy Farmers, Dairy Australia, other livestock organisations and animal welfare groups. The Guidelines have been developed to safeguard the welfare of cattle on farms across Australia, and create clear and consistent regulation based on current scientific knowledge, recommended industry practices and community expectations. The Seller must comply with the Guidelines, whether or not they are enacted by legislation.

#### 24. Transportation of Livestock

- 24.1 The dairy industry has worked with other industry bodies, animal welfare scientists, governments and welfare groups to develop new national standards for the transport of animals. The *Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock* are complete and have been enacted into State legislation. The Seller must comply with the *Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock* and ensure that bobby calves being transported for sale or slaughter are:
  - (a) at least five days old (unless consigned directly to a calf-rearing farm);
  - (b) fit and healthy;
  - (c) adequately fed within six hours prior to transport; and
  - (d) free from antibiotic residues.

#### 25. Definitions

The following definitions apply to this policy:

- (a) **Contamination** or **Contaminated** means the contamination of Dairy Product due to one or more of the reasons described in clause 22.4.
- (b) **Dairy Product** means the dairy product contracted to be supplied by a Seller to a Buyer on the terms of a Contract.
- (c) **Farm Milk** means Raw Milk harvested directly from dairy cattle on a dairy farm.

- (d) **Milk Exchange Terms** means the terms and conditions governing the use of the Milk Exchange available here: [www.milkexchange.com.au](http://www.milkexchange.com.au).
- (e) **Quality Requirements** means those requirements which are specified in the Contract.
- (f) **Quality Standards** means those standards which are specified in the Contract.
- (g) **Raw Milk** means Dairy Product in the form of unprocessed or unpasteurised raw milk contracted to be supplied by a Seller to a Buyer on the terms of a Contract.
- (h) **Testing Data** means the data obtained from conducting the tests specified in the Quality Standards and Quality Requirements, and the collection data of the Dairy Product (i.e. the volume and fat protein or solids non-fat of the Dairy Product).
- (i) **Transporter** means any vessel used by MX, a third party collection agent, or any other representative of the Buyer, to collect Dairy Product from the Seller on behalf of the Buyer.

## SCHEDULE 3

### PAYMENT POLICY

#### 26. General principles

26.1 This policy governs:

- (a) the payment of fees to MX by End User for use of the Milk Exchange;
- (b) where the End User is a Buyer, the payment of fees to a Seller by End User for a sale of Dairy Product under a Contract;
- (c) the remittance to the Seller of the Seller's proceeds from a sale of Dairy Product under a Contract; and
- (d) the payment of fees to MX for any Collection, Testing and Delivery Services, RCTI Services or other services provided by MX to an End User.

26.2 Where the Buyer has appointed MX to provide RCTI Services, the Buyer and the Seller must provide a copy of the compiled Contract to MX as soon as is reasonably practical after execution of same, so that MX may calculate all Fees payable in accordance with this Payment Policy.

26.3 Unless separately defined in this Payment Policy, capitalised words and phrases adopt the meaning given to them in the Milk Exchange Terms.

#### 27. Transacting on the Milk Exchange

27.1 MX charges a fee to the Buyer for use of the Milk Exchange calculated in accordance with 28.1 of this Payment Policy (the **Milk Exchange Fee**).

27.2 Information about applicable fees and charges is published on the Milk Exchange. Fees are subject to change from time to time.

#### 28. Fees

28.1 *Milk Exchange Fee*

- (a) The Buyer must pay to MX the Milk Exchange Fee for use of the Milk Exchange.
- (b) The Milk Exchange Fee payable by the Buyer will be calculated as a percentage of the Contract Price.
- (c) The Milk Exchange Fee for each Dairy Product will be published and updated by MX from time to time on the Milk Exchange website.
- (d) As at the date of this Payment Policy, the Milk Exchange Fee for each Dairy Product is set out in Attachment 1.
- (e) The Milk Exchange Fee will be payable on the Commencement Date. If there is more than one delivery, the Milk Exchange Fee will be apportioned over the Term and payable in equal amounts on the Commencement Date and monthly thereafter.

28.2 *Dairy Product Payment*

- (a) The Buyer must pay to the Seller the Dairy Product Price for the Dairy Product supplied to the Buyer under a Contract.
- (b) The Buyer and the Seller will set the Dairy Product Price for the Quality Standards to be supplied under a Contract according to the process described in the Milk Exchange Terms.
- (c) The Seller acknowledges and agrees that the Dairy Product Price is subject to adjustment in accordance with clause 33 below.

28.3 *Collection Fees*

- (a) If applicable, the Buyer must pay the Collection Fees for collection and delivery of the Dairy Product by MX described in the Collection, Testing and

Delivery Policy in accordance with this Payment Policy.

- (b) Collection Fees will be agreed between MX and the Buyer in writing.

28.4 *Testing Fees*

- (a) If applicable, the Buyer must pay the Testing Fees as described in the Collection, Testing and Delivery Policy in accordance with this Payment Policy.
- (b) Testing Fees will be agreed between MX and the Buyer in writing.

28.5 *RCTI Fees*

- (a) If applicable, the Buyer must pay the RCTI Fees in accordance with this Payment Policy.
- (b) RCTI Fees will be agreed between MX and the Buyer in writing.

28.6 *Fees for Other Services*

If applicable, and if MX is performing any ancillary services on behalf of the Buyer, there may be other fees which are chargeable to the Buyer by MX which will be notified by MX to the Buyer in writing.

#### 29. Tax Invoices

29.1 MX will issue a tax invoice to a Buyer for the Milk Exchange Fee payable to MX in accordance with clause 28.1 of this Payment Policy.

29.2 For each Contract for the supply of Farm Milk, the Buyer, or MX where the Buyer has appointed MX to provide RCTI Services, will issue a monthly RCTI on behalf of the Seller for the supply of Dairy Product under a Contract for the calendar month preceding the month in which the RCTI is issued.

29.3 For each Contract other than for the supply of Farm Milk, the Seller will issue a tax invoice to the Buyer for the supply of Dairy Product under a Contract within 7 days of Collection where there is a single Collection, or at the end of each calendar month.

29.4 If applicable, MX will issue a monthly tax invoice to the Buyer for Collection Fees, Testing Fees, RCTI Fees or other services in accordance with clause 28 of this Payment Policy.

29.5 Invoices issued under this clause 29 will include all information required for the Buyer to comply with the terms of this Payment Policy and will be addressed to the Buyer's Authorised Representative.

#### 30. Bank Account

30.1 The Buyer must pay all Fees specified in a Tax Invoice via the payment method specified in the Tax Invoice.

#### 31. Invoicing terms

31.1 The Buyer must pay Tax Invoices issued in any given calendar month by the tenth day of the calendar month (the **Payment Date**) in which the Tax Invoice is issued. If the Payment Date falls on a day which is not a Business Day, payment must be made on the preceding Business Day.

31.2 Where the Buyer has appointed MX to provide RCTI Services,

- (a) If the Buyer complies with clause 31.1, Seller will receive payment for Farm Milk supplied under a Contract on the fifteenth day of the calendar month following the Payment Date.
- (b) If the Buyer does not comply with clause 31.1 and payment of the Tax Invoice is not received by the Payment Date, the Seller will receive payment for Farm Milk supplied under a Contract five (5) days after MX receives payment for that Tax Invoice.
- (c) If the date of payment for Farm Milk supplied under a Contract as described in clauses 31.2(a) or (b)



falls on a day which is not a Business Day, payment by MX will be made on the preceding Business Day.

**32. Payment of Milk Fees**

The following applies where the Contract is for the supply of Farm Milk.

- 32.1 Where the Buyer has appointed MX to provide RCTI Services, the Buyer and the Seller acknowledge that MX holds the funds received from a sale of Farm Milk on behalf of the Seller and MX will remit payment for the Dairy Product supplied to the Seller on the date specified in clause 31 of this Payment Policy.
- 32.2 Where the Buyer has appointed MX to provide RCTI Services, the Seller:
  - (a) Irrevocably appoints MX as its attorney in relation to dealing with any money received from the Buyer on account of the sale of Farm Milk; and
  - (b) Acknowledges and agrees it has no interest in funds that MX receives from the Buyer on account of the performance of services by MX (or third parties instructed by MX) including:
    - (i) Milk Exchange Fee;
    - (ii) Collection Fees;
    - (iii) Testing Fees;
    - (iv) RCTI Fees; and
    - (v) Fees for other services.

**33. Price adjustment to Dairy Product Price**

- 33.1 When the Buyer and the Seller enter into a Contract, the parties will contract for Dairy Product to be supplied according to the Quality Standards.
- 33.2 The parties acknowledge and agree that the Dairy Product must be tested according to the Dairy Product Policy either by the Buyer or the Buyer's Nominee (or a subcontractor of the Buyer's Nominee).
- 33.3 Where the Contract is for the supply of Farm Milk, the Buyer or the Buyer's Nominee (or a subcontractor of the Buyer's Nominee) must test the Farm Milk according to the tests which are described in the Quality Standards and Quality Requirements and in the Dairy Product Policy.
- 33.4 Where the Buyer has appointed MX to provide RCTI Services and if the Buyer nominates that the testing of Farm Milk is to be conducted by the Buyer or a Buyer's Nominee (who is not MX), the Buyer must provide the Testing Data to MX immediately after the completion of the tests but in any event no later than the Adjustment Date. The Buyer acknowledges and agrees that it is solely responsible for providing the Testing Data where the Buyer's Nominee conducting the tests is not MX. If the Buyer fails to provide the Testing Data by the relevant Adjustment Date, the Buyer will be invoiced for, and must pay for, the full amount of the Dairy Product Price, without any downwards adjustment as contemplated by clause 33.6 below.
- 33.5 MX will not be liable to the Buyer for any Loss the Buyer may suffer as a result of any failure to provide the Testing Data by the Adjustment Date.
- 33.6 Where the Contract is for the supply of Farm Milk and the Farm Milk does not meet Grade 1 for each of the tests specified in the Contract, the Seller agrees that the Dairy Product Price will be downwards adjusted cumulatively (but will not surpass 100% of the Dairy Product Price) in accordance with the following scale:

	% Reduction of Milk Fees
Grade 1	0%

Grade 2	-5%
Grade 3	-10%
Grade 4	-20%
Grade 5	-50%

For example, if the Farm Milk fails to meet Grade 1 for the Bactoscan test, but meets Grade 3, the Dairy Product Price will be adjusted downwards by 10%. If the Farm Milk also fails to meet Grade 1 for Thermoduric and instead meets Grade 2, the Dairy Product Price will be adjusted downwards by a further 5%, meaning that the overall Dairy Product Price which was specified in the Contract for that relevant batch of Farm Milk will be downwards adjusted by 15%.

**34. Contamination of Dairy Product**

- 34.1 If the Buyer elects for MX to act as the Buyer's Nominee under a Contract for the purposes of Collection, Testing and Delivery Services, the Seller agrees and acknowledges that the Seller will be responsible for reimbursing and indemnifying MX against any Loss which may be suffered by MX as a result of Dairy Product causing Contamination of a Transporter.
- 34.2 Loss could be (without limitation) reimbursement for the cost of the Contaminated Dairy Product, and costs of additional testing, segregation, additional transport, processing and disposal of the Contaminated Dairy Product.
- 34.3 For example, if the Contaminated Dairy Product contaminates Dairy Product owned by other third parties which is held on the same Transporter, the Seller may be required to reimburse MX (or parties who have engaged MX to provide Collection, Testing and Delivery Services) for the cost of the Dairy Product as it will be unable to be sold.

**35. Payment sources**

- 35.1 When the Buyer provides a payment source to MX (whether that source is credit cards, direct debits, bank transfers or PayPal), the Buyer confirms that the Buyer is permitted to use that payment source. The Buyer also authorises MX to collect and store the payment source, along with other related transaction information.
- 35.2 When the Buyer makes a payment, the Buyer authorises MX (and its designated payment processor) to charge the full amount of the Tax Invoice to the payment source the Buyer designates for the transaction.
- 35.3 If the Buyer pays any Fees by credit or debit card, MX may obtain a pre-approval from the issuer of the card for an amount up to the Fees payable by the Buyer. MX will bill the Buyer's card at the time of purchase or shortly thereafter.
- 35.4 If the Buyer pays by debit card and the Buyer's payment results in an overdraft or other fee from the Buyer's bank, the Buyer alone is responsible for that fee.

**36. Definitions**

The following definitions apply to this Payment Policy:

- (a) **Adjustment Date** means the end of each calendar month in which Dairy Product is supplied by the Seller to the Buyer. For clarity, the Adjustment Date for all Dairy Product supplied to the Buyer in June would be June 30.
- (b) **Buyer's Nominee** means a third party the Buyer contracts to test, accept and deliver the Dairy Product to the Buyer which must be a third party that is licensed to test, accept and deliver Dairy Product to the Buyer.

- (c) **Collection** means the loading of Dairy Product into the vehicle collecting the Dairy Product.
- (d) **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.
- (e) **Commencement Date** means the commencement date of a Contract.
- (f) **Contamination** or **Contaminated** means Dairy Product being contaminated in accordance with the criteria in the Dairy Product Policy.
- (g) **Contract Price** means the total price payable for Dairy Product to be supplied by a Seller to a Buyer under a Contract.
- (h) **Dairy Product** means the dairy product contracted to be supplied by a Seller to a Buyer on the terms of a Contract.
- (i) **Dairy Product Price** means the price payable by a Buyer to a Seller (through MX acting as intermediary where the Buyer has appointed MX to provide RCTI Services) for Dairy Product supplied by a Seller to a Buyer under a Contract, adjusted via the process set out in clause 33.
- (j) **Farm Milk** means Raw Milk harvested directly from dairy cattle on a dairy farm.
- (k) **Fees** means all fees described in clause 28 of this Payment Policy.
- (l) **Milk Exchange Fee** has the meaning given in clause 28.1.
- (m) **Milk Exchange Terms** means the terms and conditions governing the use of the Milk Exchange available here: [www.milkexchange.com.au](http://www.milkexchange.com.au).
- (n) **Payment Policy** means this payment policy.
- (o) **Quality Standards** means those standards which specified in the Contract.
- (p) **Quality Requirements** means those requirements which are specified in the Contract.
- (q) **Raw Milk** means Dairy Product in the form of unprocessed or unpasteurised raw milk contracted to be supplied by a Seller to a Buyer on the terms of a Contract.
- (r) **RCTI Fees** means those fees payable by the Buyer described in the RCTI Policy.
- (s) **Term** means the term of a Contract commencing on the Commencement Date.
- (t) **Testing Data** means the data obtained from conducting the tests specified in the Quality Standards and Quality Requirements, and the collection data of the Dairy Product measured upon pickup (i.e. the volume and fat protein of the Dairy Product).
- (u) **Testing Fees** means those fees payable by the Buyer described in the Collection, Testing and Delivery Policy but for clarity are:
  - (i) the courier fees incurred in transporting a sample to the laboratory; and
  - (ii) the laboratory fees incurred in undertaking the tests described in the Quality Standards and Quality Requirements.
- (v) **Transporter** means any vessel used to collect Dairy Product from the Seller.

**Schedule 1 – Milk Exchange Fee**

<b>Product</b>	<b>Fee</b>
<b>Farm Milk</b>	1% x Contract Price
<b>Dairy Product other than Farm Milk</b>	2% x Contract Price