

Legacy Livestock

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General Terms

Issued 25th August 2022

These General Terms will need to be read alongside the Letter of Offer from the Financier to the Borrower in which the Financier offers to make available the Facility to the Borrower. The Letter of Offer, these General Terms, and each Loan Settlement Advice, together contain the terms and conditions of the Facility Agreement.

The meaning of key words in these General Terms is set out at Part 1 of these General Terms.



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Part 1 – Definitions and interpretation

1. Definitions

In this document:

ABN has the meaning given to it by section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth).

Accounting Principles means accounting principles and practices generally accepted in Australia.

Accounts means profit and loss statements, balance sheets and statements of cash flows in a form and substance acceptable to the Financier and prepared in accordance with the Accounting Principles.

Acceptable Insurance Policy means insurance policies with sound and reputable insurers satisfactory to the Financier in respect of all Secured Property and covering such risks as required by the Financier in its discretion.

Advance means a cash advance made to or at the direction of a Borrower by the Financier under a Facility Agreement.

Amount Owning means at any time the Principal Outstanding and all other money then due and payable or which will or may become due for payment under a Facility Agreement or any other Transaction Document by the Transaction Parties to the Financier.

Approved Purpose means:

- (a) to assist the Borrower to purchase Livestock;
- (b) to release to the Borrower equity in Livestock;
- (c) to assist the Borrower to feed and develop Livestock; and
- (d) to pay the Establishment Fee and the Renewal Fees,

or any other purpose approved in writing by the Financier in writing including in a Loan Settlement Advice.

Approved Property means the property specified in a Letter of Offer, Drawdown Notice or Loan Settlement Advice, being the property which the Livestock will be kept.

Attorney means any attorney appointed under clause 41 and any person who derives a right directly or indirectly from an Attorney.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, filing, licence, lodgement, notarisation, permit or waiver, however it is described including any condition attaching to it and any renewal or amendment of it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Body acts in any way within a specified period, the expiry of that period without that action being taken.

Authorised Officer of a party means:

- (a) a solicitor acting on behalf of the party; or
- (b) in the case of a party that is a corporation:
 - (1) an employee of the party whose title contains either of the words Director or Manager;
 - (2) a person performing the function of any of them; or
 - (3) a person appointed by the party to act as an Authorised Officer for the purposes of a Transaction Document.

Availability Period means the period commencing on the date of a Letter of Offer and ending on the date the Financier issues a written notice to the Borrower advising of the Final Repayment Date.

Biosecurity Legislation means any law, statute, regulation, by-law, proclamation, treaty, code, ordinance, convention or other authority made or entered into by a Government Body and any principle of common law that has as one or more of its objects, purposes or effects any one or more of:

- (a) *Animal Welfare Act 1992* (ACT);
- (b) *Prevention of Cruelty to Animals Act 1979* (NSW);
- (c) *Animal Protection Act 2018* (NT);
- (d) *Animal Care and Protection Act 2001* (Qld);
- (e) *Animal Welfare Act 1985* (SA);
- (f) *Animal Welfare Act 1993* (Tas);
- (g) *Prevention of Cruelty to Animals Act 1986* (Vic); or
- (h) *Animal Welfare Act 2002* (WA).

Borrower means each person named as a Borrower in a Letter of Offer.

Borrower's Agent means a person nominated by the Borrower to be its agent for any purpose associated with the Transaction Document and accepted by the Financier in writing.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in the Relevant Jurisdiction.

Change of Control means any person not in control of the relevant Transaction Party as at the date of the Letter of Offer acquires direct or indirect control of that Transaction Party, in each case without the prior written consent of the Financier. For the purposes of this definition, **control** of a Transaction Party means:

- (a) the power to (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (1) cast, or control the casting of, more than 50% of the maximum votes that might be cast at a general meeting of that Transaction Party;
 - (2) appoint or remove all, or the majority, of the directors or other equivalent officers of that Transaction Party;
 - (3) give directions with respect to the operating and financial policies of that Transaction Party with which the directors or other equivalent officers of that Transaction Party are obliged to comply;
- (b) the holding beneficially of more than 50% of the issued share capital of that Transaction Party.

Circulating Asset, subject to clause 12.2 of Part 3, has the meaning given in the PPS Act and only if no Control Event has occurred.

Consolidated Group means a consolidated group as defined in the Tax Act.

Condition Subsequent means each condition specified as a Condition Subsequent in a Letter of Offer or Loan Settlement Advice.

Condition Subsequent Satisfaction Date means the date that a Condition Subsequent must be satisfied as specified in a Letter of Offer or Loan Settlement Advice.

Control for the purposes of Clause 48, has the meaning given in the PPS Act.

Control Event means:

- (a) in respect of all Secured Property that is, or would have been, a Circulating Asset,
 - (1) the occurrence of an Event of Default; or
 - (2) on anything occurring (including a person taking a step or signing a notice or direction) which may result in any amounts (including Tax, an amount owing to a Government Body or employee entitlements) ranking ahead of the Security Interest created by the Livestock Security;
- (b) in respect of any Secured Property that is, or would have been, a Circulating Asset:
 - (1) if the Grantor breaches, or attempts to breach, subclause 13.1 of Part 4 in respect of the Circulating Asset or takes any step which would result in it doing so; or

- (2) on any step being taken by any person to levy or Enforce any distress, attachment or other execution on or against that Circulating Asset or to Enforce a Security Interest over that Circulating Asset; or
- (3) if the Financier has control of that Circulating Asset.

Controller has the meaning given in section 9 of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Credit Risk Condition means that the Financier, acting fairly and reasonably, forms the view that because of the relevant event, circumstance, failure or Misrepresentation (or series of events, circumstances, failures or Misrepresentations, whether related or not):

- (a) there is a material risk to the Financier that a Transaction Party will fail to make a payment under a Transaction Document on its due date;
- (b) there is a material risk that the Financier will be unable to enforce its rights against any property subject to a Security; or
- (c) it is unlikely to be able to recover all amounts that the Borrower or Guarantor owes it.

Dispose means, in respect of any property, assign, transfer, sell, novate, lease, licence (or allow a surrender or variation of a lease or licence), grant a Security Interest over, declare a trust in respect of, give control of or otherwise dispose of the property.

Drawdown Date means a date on which an Advance is or is to be made under a Facility Agreement.

Drawdown Notice means a written notice or purchase invoice from the Borrower or the Borrower's Agent to the Financier specifying:

- (a) the proposed Drawdown Date;
- (b) the proposed purpose of the Advance;
- (c) the proposed Amount of the Advance;
- (d) details of the Livestock to be acquired by the proceeds of the Advance, or secured by the Advance (including the breed, sex, age, colour, brand (or other distinctive marks) and location);
- (e) as applicable, details of the destination account of:
 - (1) the Seller; or
 - (2) the Borrower (where an Advance is being made to release equity in Livestock),

to where the proceeds of the Advance will be paid directly by the Financier; and

- (f) NLIS RFID tag numbers for Livestock that is cattle and NLIS visual tag details for Livestock that is sheep and goats.

Enforce means to exercise a right to enforce arising at law, in equity or from a Transaction Document, including a power of sale, appointment of Controller, entry into possession, collection of rents and profits, leasing and hiring.

Enforceable means, in relation to any right, that it is able to be Enforced.

Enforcement means, in relation to any right, all action taken to Enforce it.

Event of Default means any of the events or circumstances described in clause 9.1, whether or not caused by anything outside the control of any Transaction Party.

Excluded Tax means a Tax imposed by a jurisdiction:

- (a) on, or calculated by reference to, the net income of the Financier in the jurisdiction; or
- (b) as a result of the Financier being a resident of, organised or operating in, the jurisdiction,

but an Excluded Tax does not include a Tax:

- (c) which may otherwise fall within paragraph (a) above and which is calculated solely on or by reference to a payment

- (d) (without allowance for any deduction) the Financier derives under any Transaction Document or a transaction contemplated by it; or

- (e) which may otherwise fall within paragraph (b) above solely as a result of the Financier being a party to any Transaction Document or a transaction contemplated by it.

External Administrator means an administrator, Controller, trustee, provisional liquidator, liquidator or any other person holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.

Facility means the provision of Advances to or at the direction of the Borrower under the Transaction Documents.

Facility Agreement means the agreement between the Financier, the Borrower and the Guarantors constituted by the acceptance by the Borrower of a Letter of Offer and on the terms of and comprising:

- (a) these General Terms (as amended or varied from time to time); and
- (b) each Loan Settlement Advice.

Facility Limit means the Facility Limit specified in a Letter of Offer, as reduced or increased from time to time in accordance with clause 5.4 of Part 2.

Feed means any feed for livestock acquired by the Borrower and funded by the Financier pursuant to an Advance.

Final Repayment Date means the date specified as the Final Repayment Date in a written notice from the Financier to the Borrower, such date not to be a date which occurs before the Repayment Date of any outstanding Advance.

Financier means AgriCap Operations Pty Ltd ACN 658 317 214 trading as Legacy Livestock.

Financing Statement has the meaning given to that term by the PPS Act.

Freeze or Quarantine Order means any notice, order or other document or act of a Government Body preventing dealings with, relating to a disease, virus or contaminant affecting, or directing the seizure, forfeiture or destruction of the Livestock or the Approved Property, whether or not for any period.

Government Body means:

- (b) any person, body, politic or other thing exercising an executive, legislative, judicial or other governmental function of any country or political subdivision of any country;
- (c) any public authority constituted by or under a law of any country or political subdivision of any country; and
- (d) any person deriving a power directly or indirectly from any other Government Body.

GST Law has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means:

- (a) any guarantee, indemnity, undertaking, letter of credit, Security Interest (except for drawings, acceptances and endorsement of bills of exchange in the ordinary course of business) or other Obligation given by any person in favour of any other person to secure or enable the payment by any third party of any money or the performance or observance of any other Obligation owed by the third party; and/or
- (b) any Obligation to ensure the solvency or financial condition of any third party.

Guaranteed Money means all money which the Borrower (whether alone or not and in any capacity) is or at any time may become liable to pay (presently, prospectively or contingently) to or for the account of the Financier (whether alone or not and in any capacity) under or in connection with the Transaction Documents. It includes money and amounts:

- (a) in the nature of principal, interest, fees, costs, expenses, indemnities, charges, duties and damages (liquidated or unliquidated) payable under, in connection with or as a

result of a breach of, or default under, a Transaction Document;

- (b) payable at any time (both before and after the date of a Letter of Offer) including money and amounts payable after or as a result of the assignment at any time (with or without the consent of the Borrower or the Guarantor) of any debt, liability or a Facility Agreement; and
- (c) which the Borrower would have been liable to pay but for an Insolvency Event in respect of the Borrower.

Guarantor means each person named as a Guarantor in a Letter of Offer.

Grantor means any Transaction Party specified in a Letter of Offer as a Grantor or any other Transaction Party who has granted a Livestock Security from time to time.

Immediately Available Funds means:

- (b) cash;
- (c) bank cheque; or
- (d) electronic transfers of cleared funds.

Indebtedness of a person means any indebtedness or liability (whether present or future, actual or contingent) relating to any financial accommodation granted to it or to any Guarantee given by it, including:

- (b) money borrowed or raised by that person;
- (c) its Obligations as lessee under any finance lease (determined in accordance with the Accounting Principles); and
- (d) the deferred purchase price of any property or services other than indebtedness for the purchase price of trading stock incurred by that person in the ordinary course of its ordinary trading business where the deferral is for a period of 60 days or more.

Indemnified Parties means the Financier and its Representatives.

Insolvency Event means:

- (a) in relation to any corporation:
 - (1) its Liquidation;
 - (2) an External Administrator is appointed in respect of the corporation or any of its property;
 - (3) the corporation ceases or threatens to cease to carry on its business;
 - (4) the corporation being deemed to be, or stating that it is, unable to pay its debts when they fall due;
 - (5) any other ground for Liquidation or the appointment of an External Administrator occurs in relation to the corporation;
 - (6) the corporation resolves to enter into Liquidation; and
 - (7) an application being made which is not dismissed or withdrawn within ten Business Days for an order, resolution being passed or proposed, a meeting being convened or any other action being taken to cause or consider anything described in paragraphs (1) to (6) (inclusive) above;
- (b) in relation to an individual, that person becoming an insolvent under administration as defined in section 9 of the Corporations Act; and
- (c) in relation to any person, anything analogous to or having a similar effect to anything described above in this definition under the law of any relevant jurisdiction.

Intellectual Property Rights means any and all intellectual and industrial property rights throughout the world including rights in respect of, or in connection with copyright (including future copyright and rights in the nature of, or analogous to, copyright), database rights, moral rights, inventions (including patents), trade marks, service marks, designs, circuit layouts and any other rights of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether or not registered or registrable and includes any

right to apply for the registration, renewals and extensions and licences of the rights listed above.

Interest Period for an Advance means:

- (a) for the first Interest Period, the period commencing on and including the date of the Advance and ending on and including the last day of the month in which the Advance was made; and
- (b) for each subsequent Interest Period, the period commencing on and including the first day of the month and ending on and including the last day of that month.

Interest Rate means, in respect of an Advance:

- (a) the Livestock Reference Rate as at the first day of each Interest Period (or where that day is not a Business Day, the immediately preceding Business Day); plus
- (b) the Margin.

Landowner's Agreement means an agreement between the Financier, the Grantor and the owner and/or lessee of any Approved Property on terms acceptable to the Financier.

Latest Acceptance Date means:

- (a) the date specified as the Latest Acceptance Date in a Letter of Offer; or
- (b) where no date is specified in a Letter of Offer, the date which is 30 days from the date of a Letter of Offer.

Letter of Offer means a Letter of Offer from the Financier to the Borrower in which the Financier offers to make available the Facility to the Borrower.

Liquidation means:

- (a) a winding up or liquidation (whether voluntary or involuntary), provisional liquidation, dissolution, bankruptcy or other analogous proceeding; or
- (b) an arrangement, assignment, composition or moratorium with or for the benefit of creditors or any class or group of creditors (including, without limitation, an administration or arrangement under part 5.3A of the Corporations Act).

Livestock means:

- (a) livestock acquired by a Transaction Party and funded by the Financier pursuant to an Advance;
- (b) any livestock which the Financier has relied on as Secured Property for an Advance;
- (c) livestock in respect of which the Financier has made an Advance to assist with the feeding and development of that livestock; and/or
- (d) any other livestock described in, as the case may be, a Drawdown Notice and/or a Loan Settlement Advice,
- (e) and in any case which may be the subject of a Security Interest in favour of the Financier.

Livestock Reference Rate means 6.25% per annum plus:

- (a) the Australian Bank Bill Swap Reference Rate (Bid) administered by ASX Benchmarks Pty Limited (or any other person which takes over the administration of that rate) for one month displayed on page BBSY of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (or if such page or service ceases to be available, the Financier may specify another page or service displaying the relevant rate); or
- (b) if the rate described in paragraph (a) above is not available, the sum of:
 - (1) the Australian Bank Bill Swap Reference Rate administered by ASX Benchmarks Pty Limited (or any other person which takes over the administration of that rate) for the relevant period displayed on page BBSW of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays

that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (or if such page or service ceases to be available, the Financier may specify another page or service displaying the relevant rate); and

- (2) 0.05% per annum.

Livestock Security means the Security Interest granted in respect of Livestock by a Transaction Party on the terms contained in Part 3.

Livestock Market Disruption means any one or more of the following:

- (a) there is an outbreak of disease relating to the Livestock;
- (b) a Freeze or Quarantine Order is given to, or received by, a Transaction Party with respect to any Livestock or the Approved Property;
- (c) an event or circumstance occurs which, in the opinion of the Financier, may have a materially negative impact on the value or marketability of the Livestock (including droughts, floods, trade embargos or any event which occurs in an export market);

Loan Settlement Advice means each Loan Settlement Advice issued by the Financier to the Borrower from time to time under which the Financier offers to make an Advance to or at the direction of the Borrower for the purchase of Livestock or another Approved Purpose.

Margin means the percentage rate per annum specified in a Letter of Offer.

Misrepresentation means any representation, warranty or statement made, repeated or deemed to be made or repeated by a Transaction Party in any Transaction Document or any document issued under any Transaction Document is not complied with, is untrue or is misleading in any material respect.

Net Disposal Proceeds means, in respect of the Disposal of Livestock, an amount calculated as the gross sale price less:

- (a) GST payable (including any amount of GST withheld); and
- (b) reasonable agent's costs, legal fees and adjustments in accordance with normal selling practices.

NLIS means National Livestock Identification System.

Nominated Account means an account nominated by the Financier to the Borrower in writing.

Obligation means any obligation, commitment, liability, covenant, undertaking or duty whether arising by operation of law, in equity or by statute and whether expressed or implied.

Overdue Amount means any amount (including interest) that is not paid when due under a Transaction Document.

Overdue Rate means the highest Interest Rate that applies to any part of the Amount Owing plus 3% per annum.

Permitted Disposal means a Disposal:

- (a) made with the prior written consent of the Financier;
- (b) made in the ordinary course of the Transaction Party's ordinary business for no less than fair market value; and
- (c) in respect of which the Transaction Party has provided the Financier notice (and all relevant details associated with the Disposal) not later than 20 Business Days prior to the date of the Disposal and to which the Financier has not objected,

provided that at the time of the Disposal:

- (d) no Event of Default or Potential Event of Default subsists; and
- (e) if a Circulating Asset, no Control Event subsists.

Potential Event of Default means any event which with the giving of notice or passing of time would become an Event of Default.

Power means any right, power, authority, discretion or remedy conferred on the Financier by the Transaction Documents or any applicable law.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

PPS Property means all property over which a Transaction Party is, under the PPS Act, legally capable of granting a Security Interest.

PPS Register means the Personal Property Securities Register established under section 147 of the PPS Act.

Principal Outstanding means the aggregate outstanding amount from time to time of:

- (a) each Advance; and
- (b) all interest, fees, costs, expenses and other amounts that have been capitalised in accordance with a Transaction Document.

Priority Document means a priority and/or subordination arrangement between the Financier, the Grantor, any other Transaction Party required by the Financier and the holder of any Security Interest over Secured Property on terms acceptable to the Financier.

Privacy Policy means the Financier's Privacy Policy (as amended from time to time), a copy of which is available at this link ([Legacy Livestock Privacy Policy](#)).

Purchaser means the purchaser, any agent for the purchaser or any other person who pays consideration in connection with the Disposal by the Borrower of Livestock.

Receiver means any receiver or receiver and manager appointed under a Security.

Real Property means any and all real property in respect of which a Transaction Party holds a legal or beneficial interest (including as trustee for a Trust).

Registration Services means the services that may be provided by the Financier or any delegate or subcontractor of the Financier under clause 11.3(b).

Related Entity has the meaning given to that term in the Corporations Act.

Relevant Jurisdiction means Queensland or any other jurisdiction specified in a Letter of Offer.

Repayment Date means, in respect of an Advance, the earlier of:

- (a) the date specified as the Repayment Date in the Loan Settlement Advice for that Advance; and
- (b) where Livestock can be attributed to one or more specific Advances (including via the NLIS tag for the Livestock), the date on which the Borrower Disposes of all or the last of the Livestock specified in the Loan Settlement Advice for those Advances.

Representative means, in relation to a person, that person's officers, employees, contractors, attorneys and agents.

Secured Money means all money which the Grantor (whether alone or not and in any capacity) is or at any time may become liable to pay (presently, prospectively or contingently) to or for the account of the Financier (whether alone or not and in any capacity) payable under or in connection with a Transaction Document including money and amounts:

- (a) in the nature of principal, interest, fees, costs, expenses, indemnities, charges, duties and damages (liquidated or unliquidated) payable under, in connection with or as a result of a breach of or default under a Transaction Document;
- (b) payable at any time (both before and after the date of this document) including money and amounts payable after or as a result of the assignment at any time (with or without the Grantor's consent) of any debt, liability or Transaction Document; and
- (c) which the Grantor would have been liable to pay but for an Insolvency Event in respect of the Grantor.

Secured Property means the Grantor's present and future right, title and interest in:

- (a) in the case of Livestock:
 - (1) the Livestock; and
 - (2) the progeny of the Livestock, all embryos and semen straws of them, all Intellectual Property Rights held or used in connection with them, all products derived from them (including wool, skins, milk, meat and eggs) and all documents and records relating to any of them;
- (b) in the case of Feed:
 - (1) the Feed; and
 - (2) any goods or agriculture product held, required or relating to the Feed;
- (c) to the extent not expressly included above for that category, all Title Certificates, Security Interests, chattel papers, all rights to receive and recover payment of any money and delivery of any other property under or in connection with the relevant Secured Property, all other choses in action, claims and remedies against any person in respect of the relevant Secured Property, and any proceeds from the relevant Secured Property (including the proceeds of insurance or a Disposal).]

Security means:

- (a) each Livestock Security;
- (b) any other Security described in a Letter of Offer or a Loan Settlement Advice;
- (c) any other document that the Financier and a Transaction Party agree in writing is to be a Security;
- (d) any other agreement, arrangement, Guarantee or Security Interest between, inter alia, the Financier and any Transaction Party in respect of their obligations to the Financier; and
- (e) any agreement or arrangement varying, amending or delivered under any of them.

Security Interest means:

- (b) an interest in or right:
 - (1) reserved over property (including any retention of title to property or any right to set off or withhold payment of any deposit or other money);
 - (2) created or otherwise arising over property under a mortgage, charge, bill of sale (as defined in any relevant statute), lien, pledge, trust or right;
 - (3) by way of security for the payment of a debt or other monetary Obligation or the performance of or compliance with any other Obligation; or
 - (4) which gives a person priority over unsecured creditors in relation to any property;
- (c) any instrument or transaction which reserves, constitutes or evidences the interests and rights referred to in paragraph (b); and
- (d) any other interest which constitutes a security interest as that term is defined in the PPS Act.

Seller means a person from whom the Borrower purchases or otherwise acquires Livestock.

Surplus Proceeds means (where applicable):

- (a) the Net Disposal Proceeds in respect of the Disposal by the Borrower of Livestock; minus
- (b) the aggregate of:

- (1) outstanding amount of Advance provided in respect of that Livestock;
- (2) any other Principal Outstanding for that Advance; and
- (3) all accrued but uncapitalised interest in respect of that Advance,

provided that where the calculation of the Surplus Proceeds results in a negative number, the amount of the Surplus Proceeds will be zero.

Suspicious Transaction means a transaction which the Financier suspects may breach any rules or regulations in Australia or any other country or any economic or trade sanctions imposed by any country (including the use of proceeds of, or which are to be applied for the purposes of, conduct which is unlawful in Australia or any other country).

Tax means any present or future tax, levy, deduction, impost, withholding, charge or duty which is levied or imposed by any Government Body together with any interest, penalty or fine on those amounts.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), as the context permits or requires.

Tax Invoice means a document that complies with the requirements of the GST Law for a tax invoice.

Title Certificate means any certificate or document of, or which evidences, title to any Secured Property

Transaction Documents means:

- (b) each Facility Agreement;
- (c) each Security;
- (d) each Guarantee given by a Guarantor in favour of the Financier on account of the Obligations of a Transaction Party;
- (e) each Landowner's Agreement;
- (f) each Priority Document;
- (g) any other document that the Financier and a Transaction Party agree in writing is to be a Transaction Document;
- (h) any other agreement, arrangement, Guarantee or Security Interest between, inter alia, the Financier and any Transaction Party in respect of their obligations to the Financier; and
- (i) any agreement or arrangement varying, amending or delivered under any of them.

Transaction Party means:

- (a) the Borrower;
- (b) the Guarantor; and
- (c) any other person who gives a Guarantee or Security Interest in respect of the Obligations of the Borrower to the Financier under any Transaction Document.

Trust means any trust of which a Transaction Party is a trustee including any trust disclosed in a Letter of Offer.

Trust Deed means each trust deed constituting a Trust.

Trustee means the person from time to time appointed as a trustee under a Trust Deed.

Trust Property means the trust fund comprising any assets which are the subject of and held by the Trustee under the Trust Deed.

2. Interpretation

2.1 PPS Legislation terms

In the Transaction Documents, unless the context requires otherwise, each of the following terms (and any grammatical variations of them) has the meaning given in the PPS Legislation:

accession, account, advance, amendment demand, attach, chattel paper, commingled, consumer property, control,

crops, currency, financing change statement, financing statement, livestock, intellectual property, inventory, negotiable instrument, perfected, personal property, proceeds, purchase money security interest, serial number and verification statement.

2.2 Interpretation

- (a) Unless the contrary intention appears, a reference in this document to:
 - (1) a Transaction Document or another document includes any variation or replacement of it notwithstanding any change in the identity of the parties;
 - (2) one gender includes the others;
 - (3) the singular includes the plural and the plural includes the singular;
 - (4) a person, partnership, corporation, trust, association, joint venture, unincorporated body, Government Body or other entity includes any other of them;
 - (5) an item, recital, clause, subclause, paragraph, schedule or attachment is to an item, recital, clause, subclause, paragraph of, or schedule or attachment to, this document and a reference to this document includes any schedule or attachment;
 - (6) a party includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;
 - (7) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;
 - (8) money is to Australian dollars, unless otherwise stated; and
 - (9) a time is a reference to time in the Relevant Jurisdiction unless otherwise specified.
- (b) The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not affect the interpretation of a Transaction Document.

2.3 Business Days

- (a) If anything under a Transaction Document must be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (b) If an act is required to be done on a particular day, it must be done before 5.00pm on that day or it will be considered to have been done on the following day.

2.4 Parties

- (a) If a party consists of more than one person, each Transaction Document binds each of them separately and any two or more of them jointly.
- (b) An agreement, Obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them separately.
- (c) An agreement, Obligation, representation or warranty on the part of two or more persons binds them jointly and each of them separately.

Part 2 – Loan Terms

3. Conditions precedent

3.1 Conditions precedent to the first Advance

The Financier is not obliged to make the first Advance unless and until the Financier has received, in form and substance satisfactory to the Financier:

- (a) the Transaction Documents required by the Financier;
- (b) evidence that the Establishment Fee and all other fees and expenses payable in connection with the Transaction Documents have been or will be paid;
- (c) evidence that the Borrower has an ABN and is registered for GST;
- (d) all documentation required in order for the Financier to comply with applicable “know your customer” or “client vetting” procedures and any anti-money laundering, counter-terrorism financing or economic and trade sanctions laws;
- (e) evidence of the satisfaction of any condition precedent specified in the Letter of Offer or a Loan Settlement Advice; and
- (f) any other information or documents which the Financier requests.

3.2 Conditions Precedent to all Advances

The Financier is not obliged to make any Advance unless:

- (a) the Financier has received, in a form and substance satisfactory to the Financier, the Transaction Documents required by the Financier;
- (b) the Financier is satisfied in all respects with the Livestock and/or Feed the subject of the Advance (including with respect to usual assessment items such as price, value, condition, suitability, disease status, weight and breed);
- (c) all searches and enquiries required by the Financier, including company and PPS Register searches in respect of any Transaction Party, have been obtained and are satisfactory;
- (d) a property inspection report of the Approved Property as to its suitability for the Livestock;
- (e) the Livestock Security is registered in respect of the Livestock with first ranking priority for all Secured Money;
- (f) where the Advance relates to the purchase of Livestock:
 - (1) it has received and is satisfied with the purchase invoice for the Livestock the subject of the Advance;
 - (2) where RFID tags:
 - (A) are required under the Biosecurity Legislation (or other law or regulation), a list of the RFID tags;
 - (B) are not required, details of the visual NLIS identification tags;
- (g) no Event of Default has occurred and is continuing or will occur from the making of the Advance;
- (h) the representations and warranties contained in clause 7 are true and correct as at the Drawdown Date;
- (i) the Advance is made during the Availability Period;
- (j) the Principal Outstanding (excluding capitalised interest and fees) after the Advance is made will not exceed the Facility Limit; and
- (k) it has received and is satisfied with evidence that Acceptable Insurance Policies are held;
- (l) the Livestock the subject of the Advance has been fitted with:
 - (1) NLIS/RFID tags; and
 - (2) uniquely identifiable management tags;

- (m) any Security Interest in Secured Property in favour of a Grantor has been perfected to the satisfaction of, and with the priority required by, the Financier;
- (n) any conditions precedent specified in a Letter of Offer or Loan Settlement Advice have been satisfied; and
- (o) the Financier has received (in form and substance satisfactory to it) all other information and documents which the Financier requires, acting reasonably.

3.3 Conditions Subsequent

- (a) The Transaction Parties must comply with each Condition Subsequent by each Condition Subsequent Satisfaction Date.

3.4 Benefit of conditions

Each of the conditions referred to in this clause 3 of this Part 2 is for the sole benefit of the Financier and a condition may be waived only by the Financier.

4. Advance

4.1 Provision

- (a) If the Borrower wants to request an Advance, it must give a Drawdown Notice to the Financier at least five Business Days before the proposed Drawdown Date.
- (b) If the Financier agrees to make the Advance requested in the Drawdown Notice, it will within two Business Days of receipt of a Drawdown Notice, issue the Borrower a Loan Settlement Advice.
- (c) Unless the Financier receives written notice from the Borrower within two Business Days of receipt of a Loan Settlement Advice from the Financier advising that it does not wish to proceed with the Advance the subject of the Loan Settlement Advice, the Borrower will be deemed to have accepted the Loan Settlement Advice and have authorised the Financier to make the Advance.
- (d) Subject to the terms of a Facility Agreement, the Financier will provide the Advance to or at the direction of the Borrower in accordance with the Loan Settlement Advice and the Facility Agreement.

4.2 Advance

- (a) Advances will be made available to the Borrower by the Financier not later than 5.00pm on the Drawdown Date.
- (b) Proceeds of an Advance must only be used for an Approved Purpose.

5. Repayment and prepayment

5.1 Repayment

- (a) The Borrower must:
 - (1) repay each Advance;
 - (2) any other Principal Outstanding for that Advance; and
 - (3) all accrued but uncapitalised interest in respect of that Advance,
 - (4) on or before the Repayment Date for that Advance.
- (b) The Borrower must pay the Amount Owed to the Financier on or before the Final Repayment Date.

5.2 Voluntary prepayment

The Borrower may prepay all or any part of the Principal Outstanding at any time.

5.3 Mandatory prepayment

- (a) While there is any Amount Owed, the Grantor must pay 100% of the Net Disposal Proceeds to the Financier up to the outstanding balance of the Amount Owed as soon as is reasonably practicable after completion (and, in any event, within 14 days of completion) of the Disposal of Livestock.
- (b) The Grantor must ensure and procure that all amounts payable by it to the Financier under clause 5.3(a) of this Part 2 are paid directly by the Purchaser to the Financier by

direct deposit or transfer into the Financier's Nominated Account in Immediately Available Funds.

- (c) Where, in the opinion of the Financier, the Livestock the subject of the Disposal:
- (1) can be attributed to one or more specific Advance (including via the NLIS tag for the Livestock), the Financier will appropriate:
 - (A) the Net Disposal Proceeds received to repay those Advances; and
 - (B) any Surplus Proceeds in accordance with 5.8.
 - (2) cannot be attributed to a specific Advance, the Financier will appropriate all Net Disposal Proceeds in accordance with 5.8.

5.4 Facility Limit

- (a) The Financier may at any time increase or decrease the Facility Limit on written notice to the Borrower and the Guarantor.

5.5 Place, time and manner of payment

The Transaction Parties must make payments to the Financier under the Transaction Documents:

- (a) at a place and in a manner reasonably required by the Financier;
- (b) by 11.00am local time in the place where payment is to be made; and
- (c) in Immediately Available Funds and without set-off, counter claims, conditions or, unless required by law, deductions or withholdings.

5.6 Late payment

If a payment is received by the Financier on the due date but after the time specified for payment that payment will be deemed to have been received before the specified time on the following Business Day.

5.7 Gross up

If a Transaction Party is required by law to deduct or withhold Taxes from any payment it must:

- (a) make the required deductions and withholdings;
- (b) pay in accordance with the relevant law the full amount deducted or withheld;
- (c) deliver to the Financier the receipt for each payment; and
- (d) increase the amount of the payment to the Financier to an amount which will result in the receipt by the Financier of the full amount which would have been payable to the Financier if no deduction or withholding had been required.

5.8 Appropriation

The Financier may, subject to any express provision in a Transaction Document to the contrary, appropriate any payment towards the satisfaction of any money due by the Transaction Parties in relation to the Transaction Documents in any way that the Financier thinks fit and notwithstanding any purported appropriation by the Transaction Parties.

6. Interest and fees

6.1 Establishment Fee

- (a) The Establishment Fee is payable by the Borrower to the Financier.
- (b) The Establishment Fee must be paid by the Borrower on the earlier of:
 - (1) the date of the first Advance; and
 - (2) the expiry of the Availability Period (even if an Advance has not been made).
- (c) If the Establishment Fee is paid on the date for the first Advance it may (at the election of the Financier):
 - (1) be paid by utilising the proceeds of that Advance; or

- (2) debited to the Borrower's account (and form part of the Amount Owning).

6.2 Renewal Fee

- (a) The Renewal Fee is payable by the Borrower to the Financier.
- (b) The Renewal Fee must be paid by the Borrower on each yearly anniversary which occurs during the Availability Period, commencing one year from the date of the first Advance.
- (c) If the Renewal Fee is not paid by the Borrower on the due date, it will be debited to the Borrower's account (and form part of the Amount Owning).

6.3 Interest

- (a) In respect of each Advance, interest will be calculated and accrue at the Interest Rate for that Interest Period on:
 - (b) the outstanding balance of that Advance; and
 - (c) any other Principal Outstanding for that Advance.

6.4 Capitalisation

On the last day of each month, all interest accrued under clause 6.1 will automatically capitalise and form part of the Principal Outstanding for that Advance.

6.5 Calculation of interest

Interest will:

- (a) accrue daily;
- (b) be calculated on the actual number of days elapsed on the basis of a year of 365 days; and
- (c) if payable for a specific period, be calculated from and including the first day of that period until but excluding the last day of that period.

6.6 Interest on Overdue Amounts

- (a) Without limiting any of the Financier's rights under any Transaction Document, the Borrower must pay interest at the Overdue Rate on each Overdue Amount.
- (b) Interest on an Overdue Amount accrues daily from and including the day when the amount first becomes due until the date of actual payment and such interest may be capitalised by the Financier at the end of each 30 day period after the due date.
- (c) The Borrower must pay the Financier the interest payable under clause 6.6(a) on demand or, if the Financier does not make any demand, on the first Business Day of each month and on the Repayment Date. Payment by the Borrower to the Financier of any Overdue Amount does not constitute a waiver of the Financier's rights or a release of the Borrower from its Obligations under the Transaction Documents and nothing in this clause authorises, or is to be taken to authorise, the Borrower to allow an Overdue Amount to occur.

7. Representations and warranties

7.1 General

Each Transaction Party represents and warrants to the Financier that:

- (a) it has the capacity:
 - (1) to unconditionally execute and deliver and perform and observe its Obligations under the Transaction Documents to which it is a party;
 - (2) to own its property and assets and carry on its business as presently conducted or contemplated; and
 - (3) to sue or be sued in its own name;
- (b) it has taken all necessary action to authorise the unconditional execution and delivery and performance and observance of its Obligations under the Transaction Documents to which it is a party;

- (c) each of the Transaction Documents to which it is a party is:
 - (1) valid and binding on it;
 - (2) enforceable against it; and
 - (3) not void or voidable;
- (d) the unconditional execution, performance and observance by it of its Obligations under the Transaction Documents to which it is a party does not contravene:
 - (1) the Trust Deed;
 - (2) any law, regulation or order of a Government Body;
 - (3) if a corporation, its constitution;
 - (4) any instrument or agreement to which it is a party or other Obligation it has to another person;
- (e) each Authorisation from a Government Body necessary to enable:
 - (1) it to unconditionally execute and deliver and perform and observe the Transaction Documents and carry on its principal business or activity; or
 - (2) the Financier to exercise its rights under the Transaction Documents,
 - has been obtained, effected and complied with and no revocation of, or proceeding respecting, any Authorisation has been threatened or is pending;
- (f) no action or proceeding is current, pending or contemplated in relation to a Transaction Party before a court, Government Body or arbitrator;
- (g) it has fully disclosed in writing to the Financier all facts relating to it, the Transaction Documents and anything in connection with them which are material to the assessment of the nature and amount of the risk undertaken by the Financier in entering into the Transaction Documents and providing a Facility;
- (h) it has:
 - (1) read and understood the Transaction Documents to which it is a party; and
 - (2) obtained and will continue to obtain and rely on all independent advice and information as it deems appropriate when making its analysis of the terms of the Transaction Documents and decision to execute the Transaction Documents;
- (i) all information provided to the Financier is true and correct and is not, by the omission of information or otherwise, misleading and all projections provided were arrived at after due and careful consideration and were based on the best information available and on fair assumptions;
- (j) each Security Interest which the Transaction Documents purport to reserve, constitute or evidence exists and has the priority which it purports to have under the relevant Transaction Document;
- (k) each Obligation of the Transaction Parties under each Transaction Document ranks at least pari passu with all other unsecured and unsubordinated Obligations except Obligations mandatorily preferred by law;
- (l) it is not in breach of any law or Obligation affecting it or its assets in a way (including the NLIS, the Biosecurity Legislation and any other law or regulation relating to animal welfare or animal cruelty);
- (m) it is the beneficial owner of, and has good title to, all property held by it or on its behalf and all undertakings carried on by it;
- (n) it and its property are free of any right of immunity from set-off, proceedings or execution in respect of its Obligations under the Transaction Documents to which it is a party;

- (o) except as expressly disclosed in a Transaction Document, it is not a trustee of any trust;
- (p) it is not a member of a Consolidated Group;
- (q) it benefits by entering into the Transaction Documents to which it is expressed to be a party;
- (r) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable.

7.2 Survival of representations and warranties

Each representation and warranty will survive the execution of the Transaction Documents and be deemed to be repeated on each day money is actually or contingently owing by the Borrower to the Financier.

7.3 Notification of changes

Each Transaction Party agrees to notify the Financier promptly of anything that happens which would mean that it could not truthfully repeat all of its representations and warranties in this clause 7.3 on that date by reference to the then current circumstances.

8. Undertakings

8.1 General - positive

Each Transaction Party must:

- (a) promptly give written notice to the Financier of any actual or intended:
 - (1) Disposal of any Livestock or any Real Property;
 - (2) Indebtedness incurred, or to be incurred by a Transaction Party, in excess of an amount equal to 20% of the Facility Limit;
 - (3) Security Interest granted, or to be granted over Livestock or any Real Property,
- (b) promptly give written notice to the Financier as soon as it becomes aware of:
 - (1) any Event of Default or Potential Event of Default; or
 - (2) all litigation affecting it except where the only remedy sought in the originating process is damages the amount of which is less than \$50,000.00 or its equivalent.
- (c) obtain, renew on time and comply with the terms of each Authorisation necessary for it to enter into the Transaction Documents to which it is a party, to comply with its Obligations and exercise its rights under them and to allow them to be Enforced;
- (d) use the proceeds of each Advance for an Approved Purpose only and, without limiting the terms of the Transaction Documents, must not use such proceeds:
 - (1) for personal, domestic or household purposes;
 - (2) to purchase, renovate or improve residential property for investment purposes;
 - (3) to refinance credit that has been provided wholly or predominantly for personal, domestic or household purposes; or
 - (4) to purchase, renovate or improve residential property for investment purposes.
- (e) comply with all laws binding on it, Authorisations and with the mandatory requirements of any Government Body (including the NLIS, the Biosecurity Legislation and all other laws relating to animal welfare or animal cruelty); and
- (f) make its property and financial records available for inspection by the Financier on reasonable notice being given.

8.2 General - negative

Each Transaction Party must not without the prior written consent of the Financier:

- (a) create or allow to exist any Security Interest over:
 - (1) Livestock or Feed which ranks in priority to the Livestock Security; or
 - (2) any Real Property other than a Security Interest:
 - (A) which exists as at the date of a Letter of Offer and in respect of which the Financier has notice; or
 - (B) to which the Financier has given its prior written consent..
- (b) make any Disposal of:
 - (1) Livestock other than a Permitted Disposal; or
 - (2) Feed other than for the purposes of feeding and developing Livestock; or
 - (3) any Real Property;
- (c) cause or permit substantial change to occur with respect to its business as now conducted;
- (d) enter into any arrangement under which money may be applied, set-off or made subject to a combination of accounts or otherwise not repayable other than as arising by operation of law;
- (e) become a member of a Consolidated Group;
- (f) either:
 - (1) provide financial accommodation to any person other than another Transaction Party;
 - (2) permit financial accommodation to remain owing to it by any person other than another Transaction Party;
- (g) do anything that may result in the rights of the Financier ranking in priority behind any claim over the Secured Property;
- (h) experience a Change of Control or take any step toward a Change of Control without the prior written consent of the Financier;
- (i) if a corporation, amend its constitution or its constituent documents in any material respect;
- (j) if a corporation, transfer or change its jurisdiction of incorporation or formation or enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction (except to carry out a reconstruction or amalgamation while solvent on terms approved by the Financier);
- (k) without first giving the Financier 15 Business Days written notice, change its name, ABN, address, email address, facsimile number or any other details that have been, or are required to be, recorded on the PPS Register in connection with any Security Interest created by the Transaction Documents or any transaction contemplated by them;
- (l) without the Financier's prior written consent, lodge or serve a financing change statement or an amendment demand in relation to any Security Interest created by the Transaction Documents or any transaction contemplated by them.

8.3 Reporting Obligations

The Transaction Parties must provide to the Financier:

- (a) on request by the Financier and, in the absence of a request, on each anniversary of the date of a Letter of Offer:
 - (1) a statement of financial position of each Transaction Party in a form and substance satisfactory to the Financier; and
 - (2) copies of the Accounts of each Transaction Party's in respect of the most recently ended financial year (audited or unaudited or consolidated or unconsolidated as required by the Financier);

- (b) full details of all proceedings affecting it or any of its assets before a court, Government Body or arbitrator where a decision against it would result in a liability of more than \$50,000 (or its foreign currency equivalent); and
- (c) any other information the Financier requests relating to a Transaction Party, any Secured Property or any Trust Property (including information of a financial or commercial nature).

8.4 Livestock

The Transaction Parties must:

- (a) keep the Livestock clearly and distinctly branded with the appropriate brand or other mark or management tag, and otherwise identified in accordance with the requirements of the NLIS;
- (b) maintain all fences and gates on the Approved Property in good order and condition and in sufficient state of repair to properly contain all Livestock at all times.
- (c) apply good animal husbandry and land management practices in order to maintain or increase the number and value of the Livestock and other Related Property including to keep the Livestock disease free from serious illness, disease, injury or disability;
- (d) ensure that the Approved Property is not overstocked and that there is sufficient feed and water supplies on the Approved Property for the Livestock;
- (e) keep the Livestock at the Approved Property or at another location previously notified in writing to, and approved in writing by, the Financier;
- (f) provide the Financier within 2 Business Days of receipt with a copy of any Freeze or Quarantine Order;
- (g) if requested by the Financier, notify the Financier of any death or loss of any Livestock and the circumstances surrounding the death or loss;
- (h) if the Livestock is, or includes, wool-growing animals, ensure they are shorn or clipped at all appropriate times and that the clip is sorted, baled and marked and, if the Financier requires, delivered to a place nominated by the Financier or its Representative;
- (i) allow the Financier or its Representatives to enter onto any land owned or occupied by the Grantor to inspect the Livestock at any time, or to exercise any Power, including to use any equipment or other property owned or which the Grantor has the right to use in connection with the ownership or management of the Livestock or any Related Property;
- (j) deposit, or procure any creditor of the Grantor to deposit, into an account nominated by the Financier, if directed to do so by the Financier, any money paid or payable to the Grantor in connection with the Livestock or any Related Property; and
- (k) if a Security Interest arises in favour of a Grantor in Secured Property, the Grantor must take all steps required to register, protect, perfect, record and maintain its Security Interest in that Secured Property under the PPS Act with the highest possible priority.



8.5 Insurance Obligations

- (a) The Grantor must:
- (b) obtain and maintain, or procure that other parties satisfactory to the Financier obtain and maintain Acceptable Insurance Policies;
- (c) on request, provide the Financier with any documents, certificates or other information required by the Financier in relation to any Acceptable Insurance Policy;
- (d) not, without the consent of the Financier enforce, conduct, settle or compromise any claims in relation to an Acceptable Insurance Policy;
- (e) notify the Financier immediately when:
 - (1) an event occurs which gives rise or might give rise to an insurance claim);
 - (2) an insurance claim is refused either in part or full; or
 - (3) any one of the insurances is cancelled; and
- (f) ensure that proceeds from an insurance claim are deposited by the insurer directly into the Financier's Nominated Account or otherwise paid in a manner acceptable to the Financier and if required by the Financier applied towards payment of the Secured Money (whether or not the Secured Money would have otherwise become due).

9. Events of Default

9.1 Events of Default

It is an Event of Default, whether or not it is within the control of a Transaction Party if:

- (a) a Transaction Party fails to make any payment under any Transaction Document on its due date and such failure is not remedied within 2 Business Days of the due date;
- (b) a Transaction Party fails to observe or perform any Obligation or undertaking given to the Financier by it under or in relation to any Transaction Document (other than an Obligation or undertaking to pay money under a Transaction Document or which is contained in another paragraph of this clause 9.1) and, if capable of remedy, it continues unremedied for 10 Business Days after the earlier of:
 - (1) receipt by the Borrower of a notice from the Financier identifying the failure to comply; or
 - (2) the Borrower becoming aware of the failure to comply,
 - (3) and the Credit Risk Condition applies;
- (c) a Misrepresentation occurs and, if the circumstances causing the Misrepresentation to not be complied with, be untrue, or misleading are capable of remedy, it continues unremedied for 10 Business Days after the earlier of:
 - (1) receipt by the Borrowing of a notice from the Financier identifying the Misrepresentation; or
 - (2) the Borrower becoming of the Misrepresentation,
 - (3) and the Credit Risk Condition applies;
- (d) any expropriation, distress, attachment, sequestration or other execution is levied or enforced upon or against any asset or assets of a Transaction Party that is not discharged within 10 Business Days and the Credit Risk Condition applies;
- (e) any other present or future Indebtedness of a Transaction Party becomes due and payable, or capable of being declared due and payable, prior to its stated maturity by reason of the default of a Transaction Party and the Credit Risk Condition applies;
- (f) a Livestock Market Disruption occurs and the Credit Risk Condition applies;
- (g) it is unlawful for a Transaction Party to perform or observe any of its material Obligations under any Transaction Document; or

- (h) an Insolvency Event occurs in relation to a Transaction Party.

9.2 Consequences of default

If an Event of Default has occurred (whether or not it is continuing) then the Financier may at any time:

- (a) by written notice to the Borrower declare all or any part of the Amount Owing:
 - (1) payable on demand (in which case those amounts will be due and payable immediately on demand made at any time by notice from the Financier to the Transaction Parties; or
 - (2) due and owing (in which case those amounts will be immediately due and owing).
- (b) sue the Transaction Parties for the Amount Owing;
- (c) Enforce any Security Interest or Guarantee given by a Transaction Party in favour of the Financier.

9.3 Investigation of default

If the Financier believes in good faith that an Event of Default has or may have occurred it may appoint a Representative to undertake an investigation and the Transaction Parties must co-operate with that person in all respects and comply with all reasonable requests for information and documentation they make. If the investigation concludes that an Event of Default has occurred the Borrower must pay all costs incurred by the Financier and its Representatives in connection with the investigation. The Transaction Parties will not be entitled to make any claim against the Financier's Representatives for any loss, liability, cost or expense, nor be entitled to a copy of any report, arising out of an investigation undertaken under this clause 9.3 or under any other Transaction Document.

Part 3 - Security

10. Grant of Security Interest

10.1 Grant

- (a) In consideration of the Financier entering into a Facility Agreement and providing Advances to or at the request of the Grantor, the Grantor grants a Security Interest in the Secured Property to the Financier to secure payment of the Secured Money.
- (b) The Security Interest created under a Livestock Security:
 - (1) a transfer by way of security of Secured Property consisting of rights (contractual or otherwise) or accounts (which are not, or cease to be, Circulating Assets); and
 - (2) a charge to the extent any Secured Property is not transferred. If for any reason it is necessary to determine the nature of this charge, it is a floating charge over Circulating Assets and a fixed charge over all other Secured Property.

10.2 Attachment

The Grantor and the Financier acknowledge that they have not agreed to defer or postpone the date of attachment of the Security Interest created under a Livestock Security in any Secured Property.

11. General Security Interest

11.1 Grant

Subject to clause 11.2, each Transaction Party (including in the capacity as trustee of a Trust where relevant) grants a Security Interest over all of its assets and undertaking in favour of the Financier to secure the payment of the Amount Owing to the Financier.

11.2 Registration

- (a) Without limiting clause 10, the Financier will not lodge a mortgage or caveat (or similar instrument) in respect of the interest of a Transaction Party in any Real Property or any asset that is not Secured Property other than:
 - (1) with the consent of the Transaction Party that holds the interest in the Real Property; or
 - (2) in accordance with paragraph clause 11.2(b).
- (b) Without limiting clause 9.2 of Part 2, if an Event of Default has occurred, the Financier may in respect of any Security Interest created under clause 11.1 of this Part 3:
 - (1) lodge a caveat (or similar instrument) in respect of any Real Property;
 - (2) register fully valid and effective Financing Statements or Financing Change Statements in respect of all assets and undertaking of any Transaction Party; or
 - (3) Enforce, or take any step toward Enforcement of, that Security Interest.
- (c) Nothing in paragraph 11.2(a) prejudices the rights of the Financier, or the Obligations of the Transaction Parties, under clause 48.

11.3 Registration Services

- (a) Each Transaction Party jointly and severally appoints the Financier to provide the Registration Services until the Final Repayment Date.
- (b) The Registration Services will comprise:
 - (1) lodging, amending or discharging any such registrations on the PPSR Register on behalf of a Transaction Party as the Financier considers necessary or desirable to perfect any Security Interest of a Transaction Party that arises by reason of any Secured Property being kept on the property of another person (including at an Approved Property);
 - (2) filing or recording such other notice or documents in such jurisdictions as may be required or permitted by

any applicable law to perfect any Security Interest of a Transaction Party that arises by reason of any Secured Property being kept on a third parties' property (including at an Approved Property),

- (3) the Registration Services,

- (c) Without limiting the Registration Services, each Transaction Party;

- (1) consents and agrees to promptly supplying any and all information to the Financier that is reasonably necessary to perfect, continue or realise a Security Interest referred to in paragraph 11.3(b)(1); and
- (2) consents and agrees that the Financier may employ agents and attorneys and may delegate or subcontract any of its right or obligations as agent without notifying any person of the delegation or subcontracting of the Registration Services; and
- (3) authorise the Financier to:

- (A) file all Financing Statements and other documents; and

- (B) do all things anything (including obtaining consents, signing and producing documents, getting documents completed and signed),

which are necessary to perfect, continue or realise a Security Interest referred to in paragraph 11.3(b)(1).

12. Nature and priority of Security Interest

12.1 Priority

- (a) Unless the Financier otherwise agrees in writing the Security Interest created by a Livestock Security must be first ranking and take priority over all other Security Interests and other interests in the Secured Property for all Secured Money.

12.2 Control Events

If a Control Event occurs in respect of any Secured Property which is a Circulating Asset, then automatically:

- (a) that Secured Property is not (and immediately ceases to be) a Circulating Asset;
- (b) any floating charge over that Secured Property immediately operates as a fixed charge;
- (c) if the Secured Property is accounts or chattel paper, it is transferred to the Financier by way of security to the extent not transferred under clause 10.1; and
- (d) the Grantor may no longer deal with the Secured Property.

12.3 Conversion to Circulating Assets

If any Secured Property is not or ceases to be a Circulating Asset, and becomes subject to a fixed charge or transfer under clause 12.2, the Financier may give the Grantor a notice (at any time and from time to time) noting that, from the date specified in the notice, the Secured Property specified in the notice is a Circulating Asset, or becomes subject to a floating charge or is retransferred to the Grantor.

12.4 Inventory

Any Secured Property which is inventory which is not, or ceases to be, a Circulating Asset is specifically appropriated to a Security Interest under a Livestock Security. The Grantor may not remove it without obtaining the specific and express authority of the Financier to do so.

13. Dealings with Secured Property

13.1 Disposals

- (a) Without limiting the Obligations of the Grantor or rights or Power of the Financier, where a Security Interest in any Secured Property is created which is not permitted by the Transaction Documents, at the request of the Financier the Grantor must procure the holder of the Security Interest to enter into a priority arrangement satisfactory in all respects to the Financier.

- (b) If the Grantor Disposes of or otherwise deals with Secured Property or an interest in it in breach of the Transaction Documents, then despite that Disposal or other dealing:
 - (1) the Grantor acknowledges that the Financier has not (expressly or implicitly) authorised the Disposal or other dealing or agreed that this will extinguish any Security Interest that the Financier holds in the Secured Property (including all proceeds); and
 - (2) the Security Interests created under a Livestock Security continue in the Secured Property unless the Financier has agreed otherwise in writing.
- (c) The Grantor must promptly give the Financier:
 - (1) notice of any Disposal of, or other dealing with, Secured Property or an interest in it that is in breach of the Transaction Documents; and
 - (2) any information requested by the Financier in relation to the transferee or other donee to enable the Financier to perfect the Security Interests granted under a Livestock Security as against the transferee or other donee.

13.2 Deposit Title Certificates

The Grantor must deposit with the Financier any Title Certificates to the Secured Property and the Financier is entitled to retain possession of the Title Certificates until the Secured Money has been paid in full.

14. Default

14.1 Consequences

If an Event of Default has occurred (whether or not it is continuing), then (in addition to the Powers of the Financier under clause of 9.2 Part 2) the Financier may at any time by written notice to the Grantor do any one or more of the following:

- (a) appoint one or more Receivers to a Grantor;
- (b) exercise all or any of the Powers of a Receiver under clause 15.3;
- (c) exercise any of the Financier's other Powers including either or both of the following:
 - (1) seize any Secured Property; and
 - (2) Dispose of any Secured Property in the manner, and on the terms and conditions, as the Financier sees fit; and
- (d) at the cost of the Grantor, appoint a firm of accountants or other consultants to review and report to the Financier on the business, financial condition and affairs of the Grantor.

14.2 Exercise of rights by Financier

If the Financier exercises a Power in connection with a Livestock Security, that exercise is not to be taken as an exercise of a right, power or remedy under the PPS Act unless the Financier states otherwise at the time of exercise. This clause 14.2 does not apply to a Power which can only be exercised under the PPS Act.

15. Appointment of Receiver

15.1 Appointment

- (a) At any time after an Event of Default the Financier may:
 - (1) appoint any person or persons jointly, severally or both as Receiver of all or any of the Secured Property;
 - (2) remove any Receiver and in case of the removal, retirement or death of any Receiver may appoint another in his place; and
 - (3) fix the remuneration of any Receiver.
- (b) The Receiver may exercise Powers only in connection with that part of the Secured Property specified in his appointment and the appointment does not affect the rights of the Grantor to deal with the remainder of the Secured Property in the manner permitted by the Transaction Documents.

- (c) The Power to appoint a receiver or receiver and manager over all of the Secured Property may be exercised whether or not a Receiver has already been appointed over part of it.
- (d) If a Receiver is appointed on the basis of an Event of Default which later ceases to subsist, that will not affect the validity of the appointment of the Receiver and the Event of Default will be deemed to have continued to subsist for the purposes of the appointment of the Receiver under the Transaction Documents.

15.2 Agent of Grantor

Subject to clause 15.4, every Receiver will be the agent of the Grantor and the Grantor will alone be responsible for his acts, defaults and remuneration.

15.3 Receiver's Powers

- (a) In addition to any Powers granted by law, and except to the extent specifically excluded by the terms of his appointment, every Receiver will without the need for any consent of the Grantor have Power to do anything in respect of the Secured Property that the Grantor could do.
- (b) Each of the Powers in subclause 15.3(a) must be construed independently. None limits the generality of any other.
- (c) Any dealing under any Power will be on the terms and conditions which the Receiver determines.

15.4 Receiver appointment after commencement of Liquidation

The Power to appoint a Receiver under this clause 15 may be exercised even if:

- (a) at the time when a Livestock Security becomes Enforceable or at the time when an appointment is made an order has been made or a resolution has been passed for the Liquidation of the Grantor; and
- (b) a Receiver appointed in those circumstances may or may not in some respects act as the agent of the Grantor.

16. Powers of Financier

16.1 Exercise of Powers

Whether or not a Receiver has been appointed, the Financier may at any time after an Event of Default without giving any notice exercise all or any of the Powers which may be exercised by a Receiver. Clause 16.5 applies, to the extent applicable, to any Enforcement by the Financier or any Receiver.

16.2 Not to account as mortgagee in possession

If either the Financier or a Receiver exercises Powers under a Livestock Security or takes possession of all or any part of the Secured Property, then neither of them is liable to account as a mortgagee in possession.

16.3 Withdrawal

The Financier may at any time give up possession of any of the Secured Property and may at any time withdraw any receivership.

16.4 Indemnity

The Financier may give any indemnities to the Receiver for the exercise by the Receiver of the Powers which are permitted by law and if the Financier pays any money under an indemnity it will become part of the Secured Money.

16.5 PPS Act Enforcement

Each Transaction Party and the Financier agree that:

- (a) for the purposes of sections 115(1) and 115(7) of the PPS Act:
 - (1) the Financier need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (2) sections 142 and 143 are excluded; and
- (b) for the purposes of section 115(7) of the PPS Act, the Financier need not comply with sections 132 and 137(3);

- (c) if the PPS Act is amended after the date of a Livestock Security to permit a Transaction Party and the Financier to agree to not comply with or to exclude other provisions of the PPS Act, the Financier may notify the Transaction Party that any of these provisions is excluded, or that the Financier need not comply with any of these provisions, as notified to the Transaction Party by the Financier; and
- (d) each Transaction Party agrees not to exercise its rights to make any request of the Financier under section 275 of the PPS Act, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

17. Protection of Financier and Receiver

To the extent permitted by law, the Financier and any Receiver are not liable in respect of any omission or delay in the exercise of any Power, nor for any losses which result from the exercise or non-exercise of any Power, except to the extent any loss is caused by the fraud, wilful misconduct or negligence of the Financier or Receiver.

18. Protection of purchasers

18.1 No enquiry

At the time of any Disposal or dealing purporting to be made in exercise of any Power, no purchaser or other party to any Disposal or dealing:

- (a) will be bound to enquire whether any default has been made or otherwise about the propriety or regularity of that Disposal or dealing; or
- (b) will be affected by express notice that any Disposal or dealing is unnecessary or improper.

18.2 Dealings valid

Despite any irregularity or impropriety in any Disposal or dealing, for the purposes of protecting the purchaser or other party to that Disposal or dealing, the transaction is deemed to be authorised and valid.

19. Preservation of Financier's Powers

19.1 Liability not affected

The liabilities under a Livestock Security of the Grantor and the Powers under a Livestock Security of the Financier, a Receiver or an Attorney are not affected by anything which might otherwise have that effect at law or in equity.

19.2 No merger

- (a) The Financier's right to payment of the Secured Money arising in any way (including under a negotiable instrument or another contract with the Grantor) does not merge with the Grantor's undertaking to pay the Secured Money.
- (b) A Livestock Security does not merge with, postpone, lessen or otherwise prejudicially affect any other Security Interest over the Secured Property to which the Financier is entitled.
- (c) The Financier will hold a judgment or order which it obtains against the Grantor in respect of the Secured Money collaterally with a Livestock, and a Livestock Security will not merge in the judgment or order.

19.3 Exercise of Financier's Powers

The Financier may exercise its Powers under a Livestock Security even if a negotiable instrument, Security Interest, contract or other Obligation relating to the Secured Money is still current or has not fallen due.

19.4 Suspension of Grantor's rights

Until all Secured Money has been paid and discharged:

- (a) the Grantor will not:
 - (1) be entitled by contribution, subrogation, indemnity, marshalling or otherwise to the benefit of any Security Interest, Guarantee or document held by the Financier for the payment of the Secured Money irrespective of whether or not that Security Interest, Guarantee or document is given by the Grantor;

- (2) raise a defence, set-off or counterclaim against the Financier if that might reduce or discharge the Grantor's liability under the Transaction Documents; or
 - (3) unless expressly permitted to do so in a Transaction Document, prove, claim or vote in, or receive the benefit of a distribution, dividend or payment arising out of, the Liquidation of any person who has provided a Security; and
- (b) without limiting or affecting any other provision of the Transaction Documents, the Grantor waives any right it has or may have at any time which may prevent the recovery by the Financier of all Secured Money (whether arising by subrogation, under a constructive or other trust or otherwise at law or in equity) including the right to require another person to pay to the Grantor any money or to assign the benefit of a Security Interest to the Grantor.

19.5 Prove in Liquidation

An Attorney may prove in the Liquidation of any person for all money that the Grantor is entitled to claim against that person on any account. The Attorney must account to the Grantor for any money which it receives in excess of the Secured Money but the Attorney is not obliged to pay any interest to the Grantor on that excess.

19.6 No marshalling

The Financier is not obliged to marshal, resort to, Enforce or appropriate any other Security Interest, money or assets it holds for, or to secure, payment of the Secured Money before it Enforces a Transaction Document.

19.7 Co-surety

The liability of the Grantor under a Livestock Security is not affected because:

- (a) any other person who was intended to become a co-surety or co-indemnifier for payment of the Secured Money has not done so or has not done so effectively; or
- (b) a person who is a co-surety or co-indemnifier for payment of the Secured Money is discharged under an agreement or under statute or a principle of law or equity.

19.8 Preference

If a claim is made that all or part of a payment, Obligation, settlement, transaction, conveyance or transfer in connection with the Secured Money is void or voidable under law relating to insolvency or the protection of creditors or for any other reason and the claim is upheld, conceded or compromised:

- (a) the Financier is entitled immediately as against the Grantor to the Powers in respect of the Secured Money to which it would have been entitled if all or that part of that payment, Obligation, settlement, transaction, conveyance or transfer had not taken place; and
- (b) the Grantor agrees to immediately do any act and sign any document at the Financier's request to restore to the Financier any Security Interest or Guarantee held by it from the Grantor immediately before that payment, Obligation, settlement, transaction, conveyance or transfer.

20. Release

20.1 Execute release

The Financier must execute a release of the Secured Property a Livestock Security at the request of the Grantor on satisfaction of the Obligation to pay all of the Secured Money unless the Financier considers that there is a prospect that money will become owing (actually, contingently or prospectively) by the Grantor to the Financier for any reason, including because a payment made by the Grantor or any other person to the Financier could be voided under any law relating to insolvency or for any other reason.

20.2 Retain documents

The Financier is entitled to retain all instruments and Title Certificates deposited under clause 13.2 until a Livestock Security is released in respect of the relevant Secured Property.

21. Continuing security

This deed will be a continuing security notwithstanding any settlement of account, intervening payment or other matter or thing whatever until a final discharge of a Livestock Security has been given to the Grantor.

22. Other securities

22.1 Not to be affected by this document

Nothing contained in any Transaction Documents merges in or otherwise in any way prejudicially affects:

- (a) any other Security Interest; or
- (b) any right or remedy against any person,

which the Financier or any person claiming through the Financier has at any time.

22.2 Not to affect other documents or Powers

No other Security Interest at any time held by the Financier will in any way prejudicially affect the Transaction Documents or any Power.

23. Application of money

23.1 Order

- (a) All money received under a Livestock Security from time to time (even if less than is required to pay all Secured Money owing at that time) which is not required by law (including section 140 of the PPS Act) to be paid to another person in priority (without limiting any other provision of the Transaction Documents) may be applied or appropriated by the Financier in or towards satisfaction of all or any part of the Secured Money in the order and the manner which the Financier determines in its absolute discretion, including in a manner which will enable the Financier to preserve any purchase money security interest held by the Financier.
- (b) Any application or appropriation purportedly made by the Grantor which is inconsistent with that of the Financier will have no effect and the Grantor and the Financier agree that subclause 23.1(a) is the method of application to which they have agreed for the purposes of section 14(6)(a) of the PPS Act.
- (c) To the extent required by law, any surplus money held by the Financier after payment in full of all Secured Money and the making of all payments that the Financier or any Receiver or Attorney is entitled or obliged to make under the Transaction Documents or at law must then be applied:
 - (1) in payment of money owing to any person of whom the Financier, Receiver or Attorney is actually aware who holds a Security Interest over Secured Property which ranks in priority after the Security Interest created by a Livestock Security (and if more than one, in the order of their priority); and
 - (2) to the extent not otherwise applied, to the Grantor or any other person entitled to it (and if more than one, in the order of their priority).

23.2 No interest

Money available for application under paragraph 23.1(c)(2) will not bear interest. The Financier may discharge its liability to account for it by crediting it to an account in its books in the name of the person to whom it is payable, or by paying it into court.

23.3 Actual receipt

In the application of money under clause 23.1 the Grantor is to be credited only with so much of that money as is actually received by the Financier. The credit dates from the time of receipt.

24. Statutory Powers

24.1 Powers in augmentation

The Powers conferred on the Financier by any law (including chapter 4 of the PPS Act):

- (a) are in augmentation of the Powers conferred by any Transaction Document;
- (b) (to the extent permitted by law) may be exercised by the Financier immediately if an Event of Default occurs; and
- (c) are excluded or varied only so far as they are inconsistent with the express terms of any Transaction Document.

24.2 Notice not required unless mandatory

The Financier need not give notice to the Grantor or allow time to elapse before exercising a Power unless notice or a lapse of time is required by a law which cannot be excluded. If the law stipulates that notice must be given or time elapse, then:

- (a) if a period of notice or lapse of time is mandatory, that period of notice must be given by the Financier or the time must elapse; or
- (b) if a period of notice or lapse of time is not mandatory but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

Nothing in this clause 24.2 prohibits the Financier or any Receiver from giving a notice under the PPS Act or any other law.

24.3 Appointment of nominee for PPS Register

For the purposes of section 153 of the PPS Act, the Financier appoints the Grantor as its nominee, and authorises the Grantor to act on its behalf, in connection with a registration under the PPS Act of any Security Interest in favour of the Grantor which is:

- (a) evidenced or created by chattel paper;
- (b) perfected by registration under the PPS Act; and
- (c) transferred to the Financier under this document.

This authority ceases when the registration is transferred to the Financier.

Part 4 – Guarantee

25. Consideration

The Guarantor assumes the Obligations on it under the Transaction Documents in consideration of the Financier agreeing to provide financial accommodation to the Borrower at the request of the Guarantor.

26. Guarantee

26.1 Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Financier the payment by the Borrower of the Guaranteed Money in accordance with the Transaction Documents.

26.2 Payment and performance

If the Borrower does not pay the Guaranteed Money on time and in accordance with the Transaction Documents or any other agreement which imposes the Obligation to pay it the Guarantor must pay the Guaranteed Money to the Financier on demand as if it was the principal obligor.

27. Indemnity

The Guarantor unconditionally and irrevocably indemnifies the Financier against any loss the Financier suffers if any of the Guaranteed Money is not recoverable from the Borrower or the Guarantor by the Financier for any reason or circumstance and the Guarantor will as principal obligor pay the loss to the Financier on demand, except to the extent such loss is caused by the Financier's own fraud, wilful misconduct or negligence.

28. Continuing

The Guarantee provided in clause 26 of this Part 4 is continuing and will:

- (a) remain in full force and effect until all the Guaranteed Money has been paid to the Financier;
- (b) not be wholly or partially discharged by the payment of any of the Guaranteed Money or by any settlement of account or by any other matter or thing; and
- (c) apply to the present and any future balance of the Guaranteed Money.

29. Liability not affected

The liability of the Guarantor and the rights of the Financier under a Facility Agreement are not affected by anything which but for this clause may operate to release or affect its Obligations including:

- (a) the grant of any time waiver or other indulgence to or compounding or compromising with the Borrower or any other person;
- (b) the release or discharge of the Borrower or a co-surety or any other person in whole or in part;
- (c) an Insolvency Event in respect of the Borrower, the Guarantor or any other person;
- (d) the death of any natural person who is a Borrower or Guarantor;
- (e) the dissolution, change in control, change in status, reconstruction scheme, any assignment for the benefit of creditors, arrangement or compromise with creditors of or in relation to the Borrower or any other person;
- (f) the payment of any money into the account of the Borrower or any other person at any time whether that money is received or paid jointly and severally or otherwise;
- (g) the opening of a new account by the Borrower with the Financier or any other person or the operation of a new account;
- (h) the amalgamation or merger of the Borrower or Guarantor with any person;
- (i) the fact that a person is a trustee, nominee, joint owner, joint venturer or a member of a partnership, firm or association;

- (j) the variation or reconstitution of any Transaction Document or other agreement related to the Guaranteed Money or any Security Interest;
- (k) a Security Interest or a negotiable instrument being lost, void, voidable, illegal unenforceable or ineffective;
- (l) the failure to take a Security Interest or Guarantee from the Borrower or any other person;
- (m) laches, acquiescence, delays, acts, omissions or mistakes on the part of the Financier;
- (n) the acceptance of repudiation or other termination in connection with the Guaranteed Money;
- (o) the invalidity or unenforceability of an Obligation or liability of any Guarantor or any other person;
- (p) any person who was to enter into a Transaction Document or otherwise become a co-surety has not done so or has not done so effectively or has done so on different terms than the Guarantor;
- (q) the failure by the Financier to exercise or fully exercise its rights under a Transaction Document or a Security Interest, or any other rights against the Borrower or any other person;
- (r) the failure by the Financier to preserve the liability of the Borrower or any other person under the Transaction Documents or any Security Interest;
- (s) the postponement, release or assignment of, or other dealing in whole or in part with, a Security Interest or other right relating to the Guaranteed Money;
- (t) a person obtaining a judgment against the Borrower or any other person;
- (u) a legal limitation, incapacity or other circumstance of the Borrower or any other person;
- (v) the failure of the Financier or Borrower to give notice to the Guarantor of any default by any person under any Transaction Document;
- (w) any transaction or arrangement between the Financier and the Borrower or any other person;
- (x) any document not executed by or binding on any person;
- (y) any of the Guaranteed Money being irrecoverable.

30. Other securities

The Financier's rights under the Transaction Documents are additional to and do not merge with or affect and are not affected by:

- (a) any Security Interest held at any time by the Financier from the Borrower, any other Transaction Party or any other person; or
- (b) any other Obligation of the Guarantor to the Financier, notwithstanding any rule of law or equity or any statutory provision to the contrary.

31. Suspension of Guarantor's rights

31.1 Negative undertakings of Guarantor

Until all the Guaranteed Money has been paid and discharged the Guarantor will not:

- (a) be entitled by contribution, subrogation, indemnity, marshalling or otherwise to the benefit of any Security Interest, Guarantee or document held by the Financier for the payment of the Guaranteed Money;
- (b) make a claim or Enforce a right against the Borrower or any co-surety or against their property; or
- (c) raise a defence, set-off or counterclaim available to itself, the Borrower or a co-surety against the Financier.

31.2 Other security

Without limiting or affecting any other provision of a Transaction Document, until all Guaranteed Money has been paid, the Guarantor waives any right it has or may have at any time which

may prevent the recovery by the Financier of all Guaranteed Money (whether arising by subrogation, under a constructive or other trust or otherwise at law or in equity) including the right to require another person to pay to the Guarantor any money or to assign the benefit of a Security Interest to the Guarantor.

31.3 Application of money

Any amount received by the Guarantor in contravention of clauses 31 or 31.2 will be held by the Guarantor on trust for the Financier and the Guarantor must pay those amounts to the Financier on demand.

32. Liquidation

32.1 Claim following Liquidation

If the Borrower or a co-surety goes into Liquidation:

- (a) the Guarantor must, at the direction of the Financier, prove (to the extent lawfully permitted) or refrain from proving for every debt, liability or other Obligation, and exercise its rights under every Security Interest granted to the Guarantor against the estate or assets of the Borrower or co-surety (as the case may be); and
- (b) any money, asset or other dividend realised by the Guarantor from or by reason of any proof against the estate or assets of the Borrower or co-surety (as the case may be) must be accepted and held on trust for payment to the Financier to the extent that the Guaranteed Money has not been paid and discharged in full.

32.2 Attorney

The Guarantor irrevocably appoints the Financier and the Authorised Officers of the Financier severally as its attorney for and on behalf of the Guarantor to do any of the things specified in clause 32 or incidental to them.

32.3 Proceedings against Borrower

The Guarantor waives any right it has of requiring the Financier to proceed or Enforce any right against the Borrower or any other person before claiming from it under a Transaction Document.

33. Rescission of payment

Notwithstanding any cancellation or release by the Financier a Transaction Document if a claim is made that all or part of any Obligation, payment or other transaction relating to the Guaranteed Money is void or voidable and that claim is upheld conceded or compromised:

- (a) the Financier is immediately entitled against the Guarantor to all rights in respect of the Guaranteed Money as if all or that part of the Obligation payment or other transaction as is held, or conceded, to be void or voidable or which is foregone or compromised had not taken place; and
- (b) the Guarantor must do any act and sign any document at the Financier's request to restore to the Financier any Security Interest or Guarantee held by it immediately prior to the Obligation payment or other transaction.

34. Suspense account

34.1 Suspense and appropriation

The Financier may place any payment received by it in respect of the Guaranteed Money into a suspense account as security for the payment of the Guaranteed Money and may at any time appropriate any sum towards payment of the Guaranteed Money.

34.2 Not a reduction

Any payment placed in a suspense account will not be deemed a reduction in the Guaranteed Money until the Financier has appropriated it towards payment of the Guaranteed Money.

35. Variation

A Guarantee provided by a Guarantor extends to cover the Transaction Documents as varied and all variations to the financial accommodation provided by the Financier to the Borrower whether with or without the consent of the Guarantor.

36. Acknowledgements

The Guarantor acknowledges that:

- (a) it has not entered into any Transaction Document in reliance on or as a result of any statement or conduct of the Financier;
- (b) the Financier is not obliged to disclose any information, give any advice or do anything except as provided in a Transaction Document; and
- (c) the Financier may arrange for another person to assume any of its Obligations under any agreement it has with the Borrower and is not obliged to obtain the consent of the Guarantor to any assumption of Obligations and any person who assumes the Obligations is taken for all purposes under the Transaction Document to be the Financier.

37. Payment

The Guarantor must pay interest on the Guaranteed Money and all other amounts due by it under a Transaction Document during the period it becomes due and remains unpaid on written demand at the Overdue Rate calculated daily and capitalised at the end of each 30-day period after the due date (and all amounts so capitalised will form part of the Principal Outstanding).

38. Guarantor cannot require set-off

The Guarantor is not entitled to the benefit of or to require the Financier to appropriate towards payment of the Guaranteed Money any funds of the Borrower which are held by the Financier separately from the Guaranteed Money.

Part 5 - Trust

39. Acknowledgments

If a Transaction Party is or becomes a Trustee of a Trust (whether or not that fact has been disclosed to the Financier) it:

- (a) acknowledges that the Transaction Documents bind it personally and in its capacity as Trustee; and
- (b) agrees that the definition of Secured Property includes the present and future right, title and interest in Trust Property to the extent that the Trust Property constitutes Secured Property.

39.1 Undertakings

Each Transaction Party which is a Trustee must:

- (a) ensure that the Trust is operated and maintained in accordance with all applicable laws and Authorisations and good business practice;
- (b) not cause or permit any Trust Property to be mixed with any other property;
- (c) not release, Dispose of or otherwise prejudice its right of indemnity against the Trust Property or its equitable lien over the Trust Property;
- (d) not do anything which effects or facilitates the retirement, removal or replacement of the Trustee or the appointment of any other person as trustee of the Trust or trustee of the Trust Property;
- (e) must cause any of its successors as Trustee of the Trust to execute all documents which the Financier requires to ensure that those Transaction Documents binds that successor;
- (f) not do anything which could restrict the Trustee's right of indemnity from the Trust Property in respect of Obligations or liabilities incurred by the Grantor under the Transaction Documents;
- (g) not do anything which effects or facilitates the variation of the Trust Deed, the termination of the Trust or the determination of the vesting date of the Trust;
- (h) not, without the prior consent of the Financier, do anything which effects or facilitates the transfer or distribution of the Trust Property and each Trustee undertakes that unless the Financier has given its prior written consent there will be no:
 - (1) capital distribution under the Trust;
 - (2) exercise of any power of determination, revocation, appropriation or advancement; or
 - (3) settlement, setting aside or transfer to other trusts of any of the Trust Property,

but these restrictions do not apply:

- (4) to a distribution of Trust income in terms of the Trust Deed; or
- (5) so as to infringe the law against perpetuities or relating to accumulation;
- (i) ensure that the Trustee assigns to the Financier, and otherwise facilitates the subrogation of the Financier to, the indemnities and equitable lien referred to in subclause (c) above;
- (j) not exercise any power or provision of the Trust after the occurrence of an Event of Default without the prior written consent of the Financier.

39.2 Warranties

- (a) Each Transaction Party which is a Trustee warrants that:
 - (1) the Trustee has power under the Trust Deed to execute the Transaction Documents, and perform its Obligations under them;
 - (2) the Trustee is the only trustee of the Trust and the only trustee of the Trust Property;

- (3) no action has been taken to remove the Trustee as trustee of the Trust or of the Trust Property, to appoint an additional trustee of the Trust or of the Trust Property or to terminate or determine the Trust;
- (4) the Trustee has a right to be fully indemnified out of all the Trust Property in relation to money owing under the Transaction Documents;
- (5) the Trust Property is sufficient to satisfy all Obligations in respect of which the Trustee has a right to be indemnified out of the Trust Property;
- (6) the Trust Deed (including any variations) provided to, and approved by, the Financier represents a complete and up to date copy of the Trust Deed and discloses all of the terms of the Trust;
- (7) the Trust has been duly constituted and the Trust Deed is not void, voidable or otherwise unenforceable;
- (8) there has been no resettlement of the Trust since its establishment; and
- (9) the Trustee has carefully considered the purpose of the Transaction Documents and considers that its entry into the Transaction Documents is for the benefit, and in the interests, of the beneficiaries of the Trust.
- (b) Each representation and warranty will survive the execution of the Transaction Documents and be deemed to be repeated on each day money is actually or contingently owing by the Borrower to the Financier.
- (c) Each Transaction Party agrees to notify the Financier at the end of each month after the date of a Facility Agreement of anything that happens which would mean that it could not truthfully repeat all of its representations and warranties in this clause 39.2 of this Part 5 on that date by reference to the then current circumstances.



40. GST

- (a) If, under the GST Law, an Indemnified Party is obliged to pay an amount of GST in respect of a taxable supply made by the Indemnified Party to a Transaction Party pursuant to the provisions of a Transaction Document or other instrument, the Transaction Party must indemnify the Indemnified Party against and will pay to the Indemnified Party that amount of GST at the same time and in the same manner as the Transaction Party is required to pay for the taxable supply or (at the Indemnified Party's election) on demand.
- (b) The Indemnified Party must issue to the Transaction Party a Tax Invoice in respect of each taxable supply to which subclause 40(a) applies within the time prescribed by the GST Law from time to time.
- (c) Where the Transaction Party is required to pay, reimburse or indemnify the Indemnified Party for an amount, the Transaction Party will pay the relevant amount (including any GST) less the amount of any input tax credits which the Indemnified Party determines that it is entitled to claim in respect of that amount, the intention being that the Transaction Party only reimburses the Indemnified Party for the net cost to it and thus avoids any element of price exploitation.
- (d) The Transaction Parties agree that the Indemnified Party has not made any allowance for GST in pricing any supply to be made under or in connection with any Transaction Document or other instrument.
- (e) Terms and expressions used in this clause 40 which are not otherwise defined have the meanings as defined in the GST Law.

41. Power of Attorney

41.1 Appointment

Each Transaction Party irrevocably appoints the Financier and each Authorised Officer of the Financier and each Receiver to be its attorney with the right at any time to:

- (a) in the name of the Transaction Party, do anything which that Transaction Party may lawfully authorise an attorney to do in connection with the Transaction Documents or (where applicable) the Secured Property or which in the Attorney's opinion is necessary or expedient to give effect to any Power (including to prove in the Liquidation of any person and performing and observing the Obligations of the Transaction Parties under the Transaction Documents);
- (b) do everything which in the Attorney's opinion is necessary or expedient to enable the exercise of any right of the Financier in relation to the Transaction Documents; and
- (c) appoint substitutes and otherwise delegate their Powers (including this Power of delegation).

41.2 Exercise

- (a) Any Attorney may exercise its Powers notwithstanding that the exercise of the Power constitutes a conflict of interest or duty.
- (b) The Transaction Parties will from time to time and at all times ratify any exercise of a Power by an Attorney.
- (c) The Power of attorney is granted to secure the performance of the Obligations of the Transaction Parties owed to the Financier under the Transaction Documents and any proprietary interests of the Financier under the Transaction Documents.

41.3 Sale

Without limiting the generality of clause 41.1(a), the Financier may sell the Secured Property by auction, tender or private treaty in any number of parcels which the Financier determines and for this purpose any Authorised Officer of the Financier may do all acts and things and sign and complete where necessary all transfers agreements and other documents necessary or expedient for the purpose of completing any sale.

41.4 Indemnity

The Transaction Parties indemnify and will keep indemnified any Attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the Attorney under the Power of attorney under this clause 41, except to the extent such loss is caused by the Attorney's own fraud, wilful misconduct or negligence.

42. Assignment

42.1 Assignment by the Transaction Parties

A Transaction Party must not Dispose of all or any part of its rights, interests or Obligations in, under or relating to any Transaction Document, or grant, declare or create any right or interest in them, without the prior written consent of the Financier.

42.2 Assignment by the Financier

The Financier may Dispose of all or any part of its rights, interests or Obligations in, under or relating to any Transaction Document, or grant, declare or create any right or interest in them, without the consent of any Transaction Party.

43. Anti-money laundering

43.1 Suspicious Transaction

The Transaction Parties agree that the Financier may delay, block or refuse to process any Suspicious Transaction without incurring any liability.

43.2 Further information

The Transaction Parties must provide all information which the Financier reasonably requires in order to manage its money-laundering, terrorism-financing or economic and trade sanctions risk or to comply with any laws or regulations in Australia or any other country.

43.3 Disclosure of information

The Transaction Parties agree that the Financier may disclose any information concerning the Transaction Parties to any law enforcement body, regulatory agency, Government Body or court where required by any such law or regulation in Australia or elsewhere.

43.4 Processing of transactions

Each Transaction Party declares and undertakes to the Financier that the processing of any transaction by it in accordance with the Transaction Parties' instructions will not breach any laws or regulations in Australia or any other country.

44. Notices

44.1 Form

Any notice or other communication to or by any party must be:

- (a) in writing and in the English language;
- (b) addressed to the address of the recipient shown in the Transaction Documents or to such other address as it may have notified the sender; and
- (c) be signed by the party or by an Authorised Officer of the sender.

44.2 Manner

In addition to any other method of service authorised by law, the notice may be:

- (a) personally served on a party;
- (b) left at the party's current address for service;
- (c) sent to the party's current address for service by prepaid ordinary mail or if the address is outside Australia by prepaid airmail;
- (d) sent by electronic mail to the party's electronic mail address.

44.3 Time

If a notice is sent or delivered in the manner provided in clause 44.2 it must be treated as given to or received by the addressee in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
 - (1) in Australia to an Australian address, the fourth Business Day after posting; or
 - (2) in any other case, on the tenth Business Day after posting;
- (c) facsimile, when a transmission report has been printed by the sender's facsimile machine stating that the document has been sent to the recipient's facsimile number; or
- (d) electronic mail, when the sender's computer reports that the message has been delivered to the electronic mail address of the addressee,

but if delivery is made after 5.00pm on a Business Day it must be treated as received on the next Business Day in that place.

44.4 Initial details

The addresses and numbers for service are initially as set out in a Letter of Offer.

44.5 Changes

A party may from time to time change its address or numbers for service by notice to the other party.

45. Governing law and jurisdiction

45.1 Governing law

The Transaction Documents are governed by and construed in accordance with the laws of the Relevant Jurisdiction.

45.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of the Relevant Jurisdiction and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to the Transaction Documents; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within paragraph 45.2(a).

46. Market Disruption

46.1 Market disruption

- (a) If before 5pm on the last Business Day of an Interest Period the Financier notifies the Borrower that as a result of market circumstances not limited to it the cost to it of funding the Facility (from whatever source it may reasonably select) would be in excess of the Livestock Reference Rate then clause 46.2 will apply to the Facility for the following Interest Period.

46.2 Cost of funds

- (a) If this clause 46.2 applies, the rate of interest on the Facility for the relevant Interest Period will be the percentage rate per annum which is the sum of:
 - (1) the Margin; and
 - (2) in the circumstances described in clause 46.1, the rate notified to the Borrower by the Financier to be that which expresses as a percentage rate per annum, the cost to the Financier of funding the Facility from whatever source it may reasonably select.
 - (3) That rate is to be notified as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period.
- (b) Any alternative basis provided pursuant to clause 46.2(a) will be binding on the Transaction Parties.

47. Costs

- (a) The Transaction Parties must, within 5 Business Days of demand, indemnify the Financier against any cost,

expense, loss or liability incurred by the Financier as a result of or in connection with:

- (b) the negotiation, preparation, execution, stamping, registration and maintenance of the Transaction Documents and any financing statement or financing change statement;
- (c) the general ongoing administration of the Transaction Documents (including giving and considering consents, waivers, amendments, variations, discharges and releases and producing title documents);
- (d) the remedy or rectification of any breach or default of a Transaction Document by a Transaction Party;
- (e) actions, claims, damages, demands or proceedings in connection with any of the Transaction Documents;
- (f) a payment made by a Transaction Party to the Financier or any Receiver under the Transaction Documents in any currency other than the currency in which the payment was due to be made;
- (g) the Financier or any Receiver exercising, Enforcing or preserving Powers (or considering doing so) under a Transaction Document, doing anything in connection with any enquiry by a Government Body involving a Transaction Party or responding to an amendment demand or a request under section 275 of the PPS Act in respect of the Security; or
- (h) any Tax other than any Excluded Tax in relation to any Transaction Document,
- (i) except to the extent such cost, expense, loss or liability is caused by the fraud, wilful misconduct or negligence of the Financier.

48. PPS Act

48.1 Transaction Document further assurances

The Transaction Parties must promptly do such things as the Financier may reasonably require from time to time to:

- (a) ensure that any Security Interest which is purported to be reserved or created by any Transaction Document is a Perfected Security Interest over all PPS Property;
- (b) ensure that any Security Interest which is purported to be reserved or created by any Transaction Document is Perfected by Control to the extent possible under the PPS Act;
- (c) enable the Financier to register fully valid and effective Financing Statements or Financing Change Statements with respect to any Security Interest over PPS Property held or intended to be held by the Financier to secure the payment of the Amount Owed; and
- (d) otherwise protect the Financier's position as the holder of Security Interests under the Transaction Documents in the context of the PPS Act.

48.2 Secured Property obligations

- (a) In respect of each registration effected by the Grantor in its favour in respect of Secured Property:
 - (1) the Grantor must use a secured party group number that is used only to record Security Interests in Secured Property;
 - (2) the Grantor must on request by the Financier provide to the Financier:
 - (A) the secured party group number and the access code for the secured party group; and
 - (B) the token code for each registration.
- (b) Without limiting the Obligations of the Grantor under the Transaction Documents, the Financier may (though is not obliged to), and the Grantor authorises the Financier to, at any time effect a registration on the PPS Register in respect of a Security Interest in favour of the Grantor in Secured Property.

49. Miscellaneous

49.1 Modifications

- (a) Unless a specific provision of these General Terms states that it cannot be varied without a Transaction Party's consent, the Financier may vary these General Terms at any time without the consent of any Transaction Party. The Financier will provide the Transaction Parties with at least 60 days' written notice of any amendment or variation to these General Terms. The General Terms (as varied from time to time) are available via the Financier's website at this link ([General Terms](#)).
- (b) By signing the Letter of Offer, each Transaction Party acknowledges and agrees that the General Terms (as varied from time to time) are binding on it.

49.2 Personal information

- (a) Each Transaction Party acknowledges that they have read, and have agreed to, the Privacy Policy.
- (b) Each Transaction Party agrees that the Financier may collect, use and disclose personal information in accordance with the Privacy Policy (as amended from time to time).

49.3 Set-off

Each Transaction Party authorises the Financier (but without obligation on its part) to set-off any Obligation owed by the Financier to a Transaction Party under the Transaction Documents against any Obligation owed by the Financier to that Transaction Party.

49.4 Exercise rights

A single or partial exercise or waiver by the Financier of any right under or relating to any Transaction Document will not prevent any other exercise of that right or the exercise of any other right.

49.5 Survival of indemnities

- (a) Each indemnity in a Transaction Document is a continuing Obligation, separate and independent from the other Obligations of the Transaction Parties and survives the termination of the Transaction Documents.

49.6 Merger

If the liability of a Transaction Party to pay money under a Transaction Document becomes merged in any deed, judgment, order or other thing, the party liable must pay interest on the amount owing from time to time under that deed, judgment, order or other thing at the higher of the rate payable under the Transaction Document and that fixed by or payable under that deed, judgment, order or other thing.

49.7 Moratorium legislation

Any law which varies prevents or prejudicially affects the exercise by the Financier of any right, power or remedy conferred on it under the Transaction Documents is excluded to the extent permitted by law.

49.8 Remedies cumulative

The rights and remedies of the Financier under the Transaction Documents are cumulative and not exclusive of any rights or remedies provided by law.

49.9 Completion of blank instruments

The Financier or any Authorised Officer of the Financier or any Receiver or Attorney may fill in any blanks in the Transaction Documents and complete in favour of the Financier, or any purchaser, any document at any time executed by or on behalf of any Transaction Party in blank and deposited with the Financier under or as collateral security any Transaction Document.

49.10 Further assurances

- (a) Each Transaction Party must promptly do anything, and must ensure that its Representatives promptly do anything, that the Financier may reasonably require to:
 - (1) give full effect to the Transaction Documents and the transactions contemplated by them;

- (2) ensure that the Transaction Documents are enforceable by the Financier in accordance with their terms and are not void or voidable;
 - (3) establish the priority of or reserve, constitute, evidence or better secure any Security Interest contemplated by or purported to be reserved, constituted or evidenced by any Transaction Document;
 - (4) stamp and register any Transaction Document in any relevant jurisdiction by any person that the Financier thinks fit; or
 - (5) assist in the execution or exercise of any Power, including execute any transfer (including any transfer in blank) or other document.
- (b) The Financier may, at the cost of the Borrower, do anything which a Transaction Party should have done under the Transaction Documents if the Transaction Party does not do so promptly or, in the Financier's opinion, does not do so properly.

49.11 Severability

- (a) If a provision of a Transaction Document is illegal, invalid, unenforceable or void in a jurisdiction it is severed for that jurisdiction and the remainder of that Transaction Document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

49.12 Taxes

The Borrower must:

- (a) pay all Taxes other than Excluded Taxes which may be payable or determinable in connection with the execution, delivery, performance or Enforcement of the Transaction Documents or any payment or receipt or of any transaction contemplated by a Transaction Document; and
- (b) indemnify the Financier, within 5 Business Days of demand, against any liabilities resulting from any delay or omission by the Borrower to pay any Taxes other than Excluded Taxes, except to the extent such liability is caused by the fraud, wilful misconduct or negligence of the Financier.

49.13 Variation

Other than the amendment or variation of the General Terms in accordance with clause 49.1, an amendment or variation to a Transaction Document is not effective unless it is in writing and signed by the parties.

49.14 Waiver

- (a) A waiver of a right under or relating to the Transaction Documents by the Financier, whether prospectively or retrospectively, is not effective unless it is in writing and signed by the Financier. No other act, omission or delay by the Financier will constitute a waiver of a right.

49.15 Counterparts

The Transaction Documents may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a counterpart a Transaction Document may deliver it to, or exchange it with, another party by emailing a pdf (portable document format) copy of the executed counterpart to that other party.