
Priag Pool Contract Terms and Conditions

Priag Marketing Pty Limited
Priag Marketing Pools Pty Ltd

Priag Pool Contract Terms and Conditions

Contents

1	Definitions and interpretation	1
	1.1 Definitions	1
	1.2 Interpretation	5
2	General	7
	2.1 Offer	7
	2.2 Our obligations	7
	2.3 Your obligations	7
	2.4 Post Delivery	8
3	Payment Option	9
4	Fees and expenses	9
5	Payment	10
6	Right of setoff and clawback	10
7	Goods and Services Tax (GST)	11
8	Transfer of title of Grain	12
9	Weight	2
10	Encumbrances	2
11	Representations, warranties and acknowledgments	2
12	Assignment and variation	3
13	Ticket Reversals	4
14	Force Majeure	4
15	Limitation of Liability	5
16	Indemnity	6
17	Privacy	8
18	Relationship of parties	9
19	Notices	9
	19.1 General	9
	19.2 When effective	9
	19.3 Addresses for notices	9
20	Jurisdiction	10
21	General	10
	21.1 Entire agreement	10

21.2	Inconsistency	10
21.3	Dispute resolution	10
21.4	Severability	10
21.5	Effect of termination or expiry	10
21.6	Waiver	11
21.7	Time of the essence	11
Schedule 1 - Payment Option Definitions		12
Schedule 2 - Distribution Payment Option		17
Schedule 3 - Deferred Payment Option		18
Schedule 4 - Advance Payment Option		19
Schedule 5 - Harvest Loan Option		21

Priag Pool Contract Terms and Conditions

1 Definitions and interpretation

1.1 Definitions

In these terms and conditions:

Advanced Payment Option means the Payment Option referred to in clause 3(a)(iii) of these Terms and Conditions.

Amount Owing means, at any time, in respect of a Crop Year, the amount that you owe us at that time for all Loans provided to you in respect of all your Deliveries of Grain to us in that Crop Year, together with all fees, costs, charges and expenses (including Enforcement Expenses) and all accrued but unpaid interest on those Loans that are payable or owing (whether actual or contingent, present or future), by you to us.

Associate has the same meaning as in the *Corporations Act 2001* (Cth).

BHC means a bulk handling company or site or storage and handling facility that receives and/or stores and handles Grain and that has been approved by the Pool Manager.

Business Day means a day that is not a Saturday, Sunday or public holiday on which banks are open for general banking business in Sydney.

Claim means any claim, notice, demand, action, recovery, proceeding, litigation, investigation or judgment of any kind.

Confirmation is the written record prepared by us at the time of formation of the Contract in accordance with clause **Error! Reference source not found.**

Contract means the contract between you and us comprising:

- (a) these Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions of the Payment Option,

formed upon our acceptance of your Offer and recorded by the Confirmation.

Crop Year means the grain harvesting and delivery season to which a particular Delivery or Deliveries relate.

Deductions means, in relation to a Delivery of Grain, the amount determined by us to be the costs incurred or applied by us in connection with that Grain including but not limited to:

- (a) transport costs;
- (b) differences in costs due to location of sales of Grain; and
- (c) any other site costs imposed by a BHC at that particular site that are not already included in the operating costs.

Deferred Payment Agreement means the Contract between you and us which is made up of:

- (a) these Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions set out in Schedule 3 (Deferred Payment Option).

Deferred Payment Option means the Payment Option referred to in clause 3(a)(ii) of these Terms and Conditions.

Delivered Tonnage means, in relation to the Contract, the quantity (in tonnes) of the Grain Delivered and accepted by us under the Contract.

Deliver means:

- (a) in respect of a physical delivery of your Grain, when you unload that Grain at the instruction of a BHC representative; and
- (b) in respect of a delivery by way of In-store Transfer of Grain, when an In-store Transfer of Grain occurs,

and 'Delivery' and 'Delivered' have similar meanings.

Delivery Location means a BHC acceptable to the Pool Manager.

Delivery Period means in relation to a Contract, the period described in the Confirmation.

Distribution Payment Agreement means the Contract between you and us which is made up of:

- (a) these Terms and Conditions;
- (b) the Confirmation;
- (c) the terms and conditions set out in Schedule 2 (Distribution Payment Option).

Distribution Payment Option means the Payment Option referred to in clause 3(a)(i) of these Terms and Conditions.

Encumbrance includes:

- (a) a security interest (as defined in the *Personal Property Securities Act 2009* (Cth));
- (b) any other right, interest or arrangement that secures, or which has the effect of securing, the payment of money or the performance of a debt, obligation or liability or which has the effect of giving a person a preferential interest or priority, including a mortgage, debenture, charge, lien, pledge, bill of sale, hypothecation, title retention arrangement, lease, hire purchase, trust, assignment or deposit by way of security, however described;
- (c) any right, interest, power or arrangement which has the effect of providing a person with a priority, preference or advantage over another person, including arising from

any option, equity, preferential interest, adverse interest or third party claim or right of any kind;

- (d) a right that a person (other than the owner) has to remove something from an asset (known as *profit á prendre*), or to use or occupy the asset, including a lease or licence or a caveat, easement or restrictive or positive covenant affecting an asset, and any third party right or interest in any right arising as a consequence of the enforcement of a judgement, including a garnishee order or a writ of execution; and
- (e) any agreement to give, create, grant or register any of the above or allow any of the above to exist without regard to the form of the transaction or agreement.

Enforcement Expenses means the costs incurred by Priag Pools, the Pool Manager or another Priag Entity in seeking to recover an amount owing by you to Priag Pools, the Pool Manager or another Priag Entity under the Contract.

Final Pool Payment has the meaning given in the relevant Payment Option.

Force Majeure Event means:

- (a) an act of war (either declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot, industrial action or labour disturbance, embargo, action or inaction by a Government Agency; or
- (b) a failure of a public utility or common carrier which renders it impossible for you to transport the Contracted Tonnage to the Delivery Location specified in the Confirmation,

but does not include any event relating to the production or non-production of Grain (including non-production of Grain wholly or partly caused by drought, flood, frost, fire or other environmental conditions).

Government Agency means any governmental, semi governmental, municipal, statutory, judicial or quasi judicial authority, department, agency, body, entity, organisation, commission or tribunal.

Grade means each of the grade classifications which we will accept into the Pool and which will be Published before acceptance of your Offer.

Grain means wheat or barley which, in relation only to the Contract, is specified in the Confirmation.

Grain Trade Australia Arbitration and Dispute Resolution Rules means the prescribed procedures for the resolution of disputes as published by Grain Trade Australia Limited ACN 097 228 656 from time to time.

GST means the same as in the GST Law.

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

Harvest Loan Agreement means the Contract between you and us which is made up of:

- (a) these Terms and Conditions;

-
- (b) the Confirmation; and
 - (c) the terms and conditions set out in Schedule 5 (Harvest Loan option).

Harvest Loan Option means the Payment Option referred to in clause 3(a)(iv) of these Terms and Conditions.

Insolvent means bankrupt, unable to pay debts as and when they fall due, in receivership, in receivership and management, in liquidation, in provisional liquidation, under any form of administration, wound up, dissolved, deregistered, subject to any arrangement, assignment or composition with creditors, protected from creditors under any statute or in receipt of protection under statute.

In-store Transfer means, in respect of Grain held by a BHC on your behalf, the transfer of ownership of that Grain that occurs when a BHC notifies us that it no longer holds that Grain for you but holds it on behalf of us (or our agent or sub-agent).

Loss means any loss, costs, charges, outgoings, liabilities, damages, expenses or indebtedness of any description.

Management Fee means the fee described in clause 9(b) of these Terms and Conditions.

Minimum Tonnage means 100 metric tonnes.

National Grower Register Number means a unique grower registration number issued by a third party approved by us which maintains a register of growers and other sellers.

Overpaid means, at any time, the amount you have been paid in excess of your entitlement (or likely entitlement) under a contract with us or another Priag Entity and includes without limitation a payment made to you in error.

Payment Option means each of the payment options described in clause **Error!**
Reference source not found. of these Terms and Conditions.

Pesticide Standards means any relevant state and federal pesticide treatment legislation or standards in relation to pesticides in grains intended for stock feed and/or for human consumption or industrial purposes.

Pool means the grouping of Grain according to Grain, Grade, time and/or place of Delivery and any other matter determined by a Priag Entity, the legal title to which has been transferred to Priag Pools.

Pool Manager means Priag Marketing Pty Limited ACN 100 425 385 or any other entity who has been appointed as manager of the Grain held by Priag Pools.

Pool Payment means, for the Distribution Payment Agreement, Deferred Payment Agreement and Harvest Loan Agreement, any amount paid or payable by us to you in respect of Grain Delivered under the Contract reduced by any Deductions and Supplier Liabilities and such other amounts in accordance with the Contract, unless the payment is already adjusted for such Deductions, Supplier Liabilities and other amounts

PPSA Security Interest has the meaning given to 'security interest' in the *Personal Property Securities Act 2009* (Cth).

Priag Debt means any amount that is due and payable by you to any Priag Entity other than the Amount Owing whether or not arising under the Contract.

Priag Entity means Priag Pools, the Pool Manager or one of their Related Bodies Corporate, acting directly or through an agent or sub-agent, as the context requires.

Priag Pools means Priag Marketing Pools Pty Ltd ACN 638 537 041 or any other entity who has been appointed by it to hold legal title to the Grain forming the assets of the Pool.

Published means to make information available to potential participants in the Pool. If information is provided in writing to you under these Terms and Conditions, that information shall prevail over any Published information unless the terms of that Published information specifically provide otherwise.

Related Body Corporate has the same meaning as in the *Corporations Act 2001* (Cth).

Supplier means the one or more persons or corporate entities whose details are set out as the supplier of the Grain on the most recent Ticket issued by the BHC at the time of Delivery.

Supplier Information means the information provided to us by you or the provider of your National Grower Register Number in connection with the Contract.

Supplier Liabilities means, in relation to a Delivery of Grain by you to us under a Contract, the total of any levies, tolls and royalties payable to third parties relating to that Delivery of Grain, and any other fees, charges or other amounts to be collected by us from you or that are otherwise payable by you to us in connection with you selling that Grain and includes for example on-farm pick up, drying charges and storage charges incurred by you prior to the title in the Grain passing to us.

Terms and Conditions mean the terms and conditions set out in this document entitled 'Priag Pool Contract Terms and Conditions'.

Ticket means the document provided to you by the BHC confirming your identity as the Supplier of the Delivered Tonnage of Grain pursuant to the terms of the Contract and the Confirmation.

Ticket Reversal means, in respect of each Delivery of Grain, the change in classification from one Grade to another.

Ticket Reversal Fees means the fees Published prior to the acceptance of your Offer, which we will charge in respect of each Ticket Reversal to compensate for our costs of the Ticket Reversal.

Tonnage means, in relation to a Delivery of Grain, the number of tonnes in that Delivery.

1.2 Interpretation

In these Terms and Conditions headings are for convenience only and do not affect the interpretation of these Terms and Conditions and unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

-
- (c) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example' or 'such as' or similar expressions;
 - (d) a reference in these Terms and Conditions to 'we', 'us' or 'our' includes a reference to the Pool Manager, Priag Pools and any Priag Entity or Associate.
 - (e) a reference in these Terms and Conditions to 'you' or 'your' means a reference to the party entering into the Contract with the Pool Manager and Priag Pools.
 - (f) a reference to a document or instrument, including these Terms and Conditions, includes all of its clauses, paragraphs, recitals, parts, schedules and annexures and includes the document or instrument as amended, varied, novated, supplemented or replaced from time to time;
 - (g) a reference to a party is to a party to these Terms and Conditions and includes the party's successors and permitted transferees and assigns and if the party is an individual, includes executors and personal legal representatives;
 - (h) a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trustee, a trust, an association (whether incorporated or not), a government and a government authority or agency;
 - (i) no provision of these Terms and Conditions will be construed to the disadvantage of a party merely because that party was responsible for the preparation of these Terms and Conditions.
 - (j) unless otherwise stated, a reference to a statute, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (k) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them severally;
 - (l) an agreement, representation, warranty or indemnity by two or more persons binds them jointly and each of them severally;
 - (m) an agreement, representation, warranty or indemnity in favour of two or more persons is for the benefit of them jointly and each of them severally;
 - (n) all monetary amounts are in Australian dollars, unless otherwise stated and a reference to payment means payment in Australian dollars;
 - (o) if the day on or by which something must be done is not a Business Day, that thing must be done on the next Business Day; and
 - (p) when counting a period of days before or after a given day or the day of a particular act or event, the given day or day of the particular act or event, as applicable, is excluded and the last day of the period is included.

2 General

2.1 Offer

- (a) By:
 - (i) conducting an In-store Transfer of Grain to Priag Pools;
 - (ii) instructing a BHC representative to assign legal title to a Delivery of Grain to Priag Pools; or
 - (iii) otherwise communicating, verbally or in writing, with Priag Pools or the Pool Manager about entering a quantity of Grain into a Pool,

you offer to enter such Grain into a Pool managed by the Pool Manager subject to:

- (iv) these Terms and Conditions; and
 - (v) the terms and conditions of the relevant Payment Option as selected by you in accordance with clause **Error! Reference source not found. (Offer)**.
- (b) We accept your Offer subject to these Terms and Conditions.
 - (c) The Delivered Tonnage, Grade of Grain, Delivery Location and the Payment Option you have selected will be confirmed in the Confirmation subsequent to our acceptance of your Offer.

2.2 Our obligations

In accordance with these Terms and Conditions and the terms and conditions of the Payment Option you select, we agree to:

- (a) accept the transfer of legal title to the quantity and quality of Grain as is sought, by you, to be transferred or assigned to Priag Pools;
- (b) allocate the Grain to a Pool; and
- (c) make payment for the Grain Delivered by you in accordance with the terms of the selected Payment Option.

2.3 Your obligations

You agree to:

- (a) transfer legal title to us to such quantity and quality of Grain in accordance with the Offer accepted by us;
- (b) deliver the Grain to the Delivery Location specified in the Confirmation within the Delivery Period;
- (c) comply with industry accepted Grain receival standards at the relevant Delivery Location to which the Grain is Delivered, a copy of which can be obtained from the Pool Manager; and

-
- (d) comply with all applicable Pesticide Standards,

in accordance with these Terms and Conditions and the terms and conditions of the Payment Option.

2.4 Post Delivery

- (a) Despite any other provision of the Contract, we may withdraw our acceptance of your Offer or reject all or part of the Grain you have Delivered, within 30 days of Delivery of your Grain, if:
 - (i) you do not have good right and title to the Grain Delivered;
 - (ii) the Delivered Tonnage does not exceed the Minimum Tonnage;
 - (iii) any Encumbrance exists over that Grain, or the proceeds of sale of that Grain, and either:
 - (A) that Encumbrance is not discharged to our satisfaction; or
 - (B) we decide, in our absolute discretion, that suitable priority arrangements have not been made between us and the holder of that Encumbrance;
 - (iv) you have Delivered to us Grain that is not compliant with the grain receival standards or applicable Pesticide Standards referred to in clauses 2.3(c) and 2.3(d);
 - (v) you have Delivered a grade of Grain that is not Published, prior to the date of your Offer, as a Grade which we will accept;
 - (vi) you have Delivered Grain to a delivery location at which we are not accepting Grain into the Pool as Published prior to the date of your Offer; or
 - (vii) any representations or warranties that you make or have made to us are not correct.
- (b) If we withdraw our acceptance of your Offer or reject Grain you have Delivered to us under the Contract in accordance with this clause 2.4 (**Rejection**), we will notify you of our Rejection and perform an In-store Transfer of Grain re-assigning legal title to the Grain to you at your expense.
- (c) Once we notify you of our Rejection:
 - (i) we will no longer be responsible for your Grain subject to clauses 15 and 16;
 - (ii) we disclaim any responsibility for any Loss you incur as a result of our Rejection; and
 - (iii) you release us from any Claim against us in respect of a Rejection made in accordance with this clause 2.4 or any act or omission of the BHC in relation to that Rejection.

-
- (d) For the purposes of the Contract, the Delivered Tonnage excludes grain returned to you as a result of a Rejection.

3 Payment Option

- (a) You may elect to accept payment for your Delivery of Grain on one of the following Payment Options:
 - (i) Distribution Payment Option (as described in Schedule 2);
 - (ii) Deferred Payment Option (as described in Schedule 3);
 - (iii) Advance Payment Option (as described in Schedule 4); or
 - (iv) Harvest Loan Option (as described in Schedule 5).

The Payment Option you select will be specified in the Confirmation.

- (b) If you fail to select a Payment Option, you will be deemed to have selected the Distribution Payment Option as described in Schedule 2.

4 Fees and expenses

- (a) The Pool Manager is entitled to charge a Management Fee in respect of your Delivery of Grain, as Published prior to the acceptance of your Offer. You authorise the Pool Manager to deduct these fees from your Pool Payments.
- (b) We may charge other fees applicable to your Delivery of Grain as Published by us prior to the acceptance of your Offer and deduct those fees from your Pool Payments.
- (c) Subject to clause 13, Ticket Reversals will be subject to Ticket Reversal Fees as Published by us prior to acceptance of your Offer.
- (d) The Pool Manager is entitled to charge an administration fee to cover the cost of discharging any Encumbrance over any Grain you have Delivered.
- (e) The fees payable to us for services provided by us in connection with your Delivery of Grain under this Contract will be only those Published by us prior to the acceptance of your Offer excluding (for the avoidance of doubt):
 - (i) any interest that may be payable by you under this Contract; and
 - (ii) the amount of any fees, charges, costs and expenses that we incur or apply to the sale of the Grain which are not in respect of services provided by us including (but are not limited to) Deductions and Supplier Liabilities.

5 Payment

- (a) Subject to clause 5(d), the amount payable to you for the Grain Delivered shall be determined in accordance with the terms of the Contract, including the Payment Option.
- (b) In respect of all your Deliveries of Grain in a Crop Year under the Contract, you unconditionally and irrevocably agree that Priag Pools and the Pool Manager (as the case may be) may apply Pool Payments (after deduction of the fees referred to in clause 4) for that Grain in the following order of priority:
 - (i) first, to pay Supplier Liabilities relating to the Grain;
 - (ii) second, if you have selected the Payment Option in Schedule 5 (Harvest Loan Agreement option) to pay the Pool Manager, on your behalf, any Amount Owing;
 - (iii) third, to pay any Priag Debt;
 - (iv) fourth, to satisfy any Encumbrance over that Grain; and
 - (v) when the amounts in subclauses 5(b)(i) to 5(b)(iv) above have been satisfied in full, to pay to you the amount remaining from those Pool Payments (if any), by crediting that amount to the bank account recorded in your Supplier Information or by issuing a cheque made payable to you by reference to the details recorded in your Supplier Information.
- (c) Neither the Pool Manager nor Priag Pools are responsible for any Loss suffered by you because of a delay in payment of a Pool Payment.
- (d) Prior to the date for your Final Pool Payment, we may in our absolute discretion offer an amount to you in satisfaction of all or part of our obligations in respect of your Deliveries under the relevant Contract. Any such payment will be made in the manner set out in clause 5(b) as if it were a Pool Payment.
- (e) Where you enter Grain into the Pool under a share farming arrangement, you agree that we may make payments to each of the parties to the share farming arrangement, in such proportions as are recorded on the National Grower Register maintained by National Grower Register Pty Ltd ACN 095 857 266 (or its successors, substitutes or assignee) or any other third party approved by us which maintains a register of growers or other sellers.

6 Right of setoff and clawback

- (a) If any Priag Entity has a Claim against you or Your Related Bodies Corporate for a Priag Debt, whether or not arising under the Contract, you agree that the Pool Manager may, in its absolute discretion, set off all or a portion of any such Priag Debt against amounts payable by us to you under the Contract and the terms and conditions of the selected Payment Option.
- (b) You unconditionally and irrevocably direct us to apply all proceeds payable to you in connection with any agreement you have entered into with us, other Priag Entities or our Associates, whether or not the agreement pre-dates the Offer, to

repay any amount Overpaid to you under the Contract and then to pay to you any remaining balance.

- (c) If any payment made to a Priag Entity in accordance with the terms of this clause 6 is void or voidable for any reason, that payment will be deemed not to have discharged your liability to that Priag Entity in respect of that payment (notwithstanding any release or discharge given by that Priag Entity).

7 Goods and Services Tax (GST)

- (a) Words defined in the GST Law have the same meaning in this clause 7.
- (b) Unless otherwise expressly stated, any amounts payable or any form of consideration to be provided for a taxable supply made under the Contract are exclusive of GST (**GST exclusive amount**).
- (c) If a supplier makes a taxable supply under the Contract, and the consideration is a GST exclusive amount, the recipient must pay to the supplier an amount on account of GST on the taxable supply (**GST amount**) equal to the GST exclusive amount multiplied by the GST rate. The GST amount is payable at the same time as the GST exclusive amount for the taxable supply.
- (d) You have agreed with and authorised us to issue a tax invoice (**Recipient Created Tax Invoice**) and adjustment note on your behalf in respect of any taxable supply of Grain made by you under the Contract to us. You have agreed and acknowledge that you will not issue a tax invoice or adjustment note in respect of the taxable supply of Grain.
- (e) You must notify us immediately if you cease to be registered for GST. If you are not registered for GST at the time a Recipient Created Tax Invoice is issued by us:
- (i) that invoice will not be treated as a Recipient Created Tax Invoice;
 - (ii) we are not obliged to pay you any amount in respect of that supply unless and until you have provided us with a valid tax invoice in relation to the relevant supply; and
 - (iii) we are entitled to recover any amount for GST from you, which has been paid to you in error.
- (f) You warrant that you are registered for GST at the time of making the Offer and you will continue to:
- (i) be registered for the term of the Contract; and
 - (ii) comply with the requirements of any taxation ruling relating to the issue of Recipient Created Tax Invoices during the term of the Contract.
- (g) If an adjustment event arises in relation to any taxable supply made under the Contract gives rise to an increasing adjustment or decreasing adjustment, the GST amount must be adjusted accordingly and where necessary, a payment must be made to reflect that increasing adjustment or decreasing adjustment.

- (h) If a party is required under the Contract to pay for, reimburse or indemnify another party for Loss, the amount to be reimbursed or indemnified is first reduced by any input tax credits the other party (or the representative member of a GST group of which it is a member) is entitled to for the Loss and then increased in accordance with clause 7(g).
- (i) Any payment of an amount in respect of a taxable supply by one party to another pursuant to clause 7(b), 7(d) or 7(g) is deferred until the issue of the relevant valid tax invoice or adjustment note to the recipient.
- (j) You must, at our request, provide us with all documentation to enable us to claim any available input tax credits for the supplies you made to us under the Contract.

8 Transfer of title of Grain

- (a) Subject to clause 2.4, all right, title and interest in the Grain shall remain with you until:
 - (i) the Grain has been Delivered; and
 - (ii) the quality of the Grain has been determined; and
 - (iii) a Ticket has been issued to you,
 at which time the right, title and interest in the Grain passes to Priag Pools.
- (b) Unless otherwise agreed by us in writing, risk of Loss or damage to the Grain shall remain with you until title in the Grain, resulting in Priag Pools' unencumbered ownership of the Grain, has been validly transferred.
- (c) If we or the BHC at the Delivery Location specified in the Confirmation cannot accept Delivery of the Grain within the Delivery Period for whatever reason, we may extend the Delivery Period by up to 90 days.
- (d) When you Deliver Grain via a BHC, you are responsible for obtaining from the BHC a ticket issued by the BHC containing the following information for each Delivery (each a **Grain Delivery Ticket**):

<ul style="list-style-type: none"> (i) ticket number; (ii) grower name or trading details; (iii) National Grower Register Number; (iv) Delivery date (v) Delivery Location; (vi) variety; (vii) Delivered Tonnage; 	<ul style="list-style-type: none"> (viii) Delivered Grade; (ix) bin grade (x) protein content (xi) moisture content (xii) screenings content (xiii) test weight (xiv) treatment of grain for defects (xv) contract number.
---	--

You must provide the Grain Delivery Ticket to Priag Pools on request by Priag Pools or the Pool Manager. You agree that we can, in our discretion, rely on the accuracy of information contained in the Grain Delivery Ticket unless we consider that the information on the Grain Delivery Ticket is clearly wrong.

-
- (e) Delivery of Grain to us by an In-store Transfer, for the purposes of the Contract, will be treated as if it occurred on a load-by-load basis with the weight of that Grain determined in accordance with clause 9.

9 Weight

- (a) Subject to clause 9(b), the weight of each Delivery of Grain will be determined at an approved weighing facility at the relevant BHC and you acknowledge that we may rely on the Grain Delivery Ticket supplied by the relevant BHC for that Grain.
- (b) If we, acting reasonably, consider that the weight recorded pursuant to clause 9(a) is manifestly wrong, we will consult with you in good faith to reach an agreement on the appropriate weight.

10 Encumbrances

- (a) You must not without the written consent of the Pool Manager:
 - (i) create an Encumbrance over, dispose of, declare a trust over or otherwise deal with any interest that you have in the Contract;
 - (ii) create or allow to come into existence any Encumbrance which affects the Contract; or
 - (iii) purport to create or allow to come into existence any Encumbrance over Grain that you deliver to Priag Pools, or create or allow to come into existence any Encumbrance over the proceeds of Grain you deliver to Priag Pools.
- (b) Without limiting clause 10(a), you agree to:
 - (i) notify the Pool Manager immediately if an Encumbrance exists or is created at any time over Grain, or over the proceeds of sale of Grain, that you deliver to Priag Pools.
 - (ii) do anything the Pool Manager reasonably request to more satisfactorily mortgage, assure or secure an Encumbrance in favour of Priag Pools; and
 - (iii) take any steps the Pool Manager reasonably requires to perfect or otherwise ensure the enforceability and priority of any security interest granted to Priag Pools or the Pool Manager under the Contract.

11 Representations, warranties and acknowledgments

Each time you Deliver Grain, and each time you otherwise deal with us in connection with the Contract, you represent and warrant to us that:

- (a) as at the date of the Offer, you have good right and title to the Grain sought to be entered into the Pool by transfer of legal title to Priag Pools;
- (b) as at the date of each Delivery:

-
- (i) you have Delivered a Grade of Grain acceptable to us for the purposes of the Contract;
 - (ii) you have disclosed to us any Encumbrances over the Grain, or the proceeds of sale of that Grain;
 - (iii) in relation to any Grain Delivered by you to us which is the subject of an Encumbrance, you have obtained the written consent of the holder of the Encumbrance to the sale of the Grain to us on an unencumbered basis;
- (c) you are not Insolvent;
 - (d) title to the Grain Delivered by you will transfer to Priag Pools in accordance with clause 8;
 - (e) you have complied with clauses 2.3(c) and 2.3(d);
 - (f) if you are acting in the capacity of a trustee of a trust or settlement, you have full authority and power under the trust instrument to enter into the Contract for the proper administration of the trust or settlement and for the benefit of, and in the interests of, all beneficiaries of the trust or settlement;
 - (g) any Grain Delivered by you to us has been produced by you in the ordinary course of your business;
 - (h) you are registered as a grower on the National Grower Register maintained by the National Grower Register Pty Ltd ACN 095 857 266 (or its successor, substitute or assignee) or any other third party approved by us which maintains a register of growers or other sellers.
 - (i) where you engage an agent to Deliver your Grain, the agent is authorised by you to provide the Supplier Information on your behalf and we may rely on the Supplier Information so provided;

You acknowledge and agree that we:

- (a) may close the Pool at any time without notice;
- (b) subject to clause 12(b), may withdraw at our absolute discretion, a Payment Option, Grade or Delivery Location previously Published as acceptable to us prior to your Delivery of Grain; and
- (c) make no representations and provide no guarantees in connection with the financial performance of the Pool.

12 Assignment and variation

- (a) Your rights in connection with the Contract or any of the obligations that you have under it cannot be assigned or varied by you without the prior written consent of the Pool Manager.
- (b) If:

-
- (i) there is a change to a contract, agreement or arrangement, or loss of a contract, agreement or arrangement between a Priag Entity or an Associate and a third party whom we engage with in order to provide the Pool which would prevent us from continuing to comply with any provision of this Contract;
 - (ii) the amendment is required in order for us to adhere to any law, regulation or policy of any Government Agency; or
 - (iii) there is an unforeseeable circumstance beyond our control against which it would have been unreasonable for us to take precautions and which we cannot avoid that affects the services necessary to handle and sell grains or manage the price risk of the Pool,

we may unilaterally amend this Contract to address only the circumstances listed in subclauses (i) to (iii) above by notifying you in writing. Any other amendment to the Contract must be agreed between you and us. Any amendments to the Contract will apply to all Deliveries of Grain made by you under that Contract from the date specified in the applicable notice or the date of agreement. Notification may be made by us by Publishing the amendments.

13 Ticket Reversals

- (a) If you request a Ticket Reversal from us for a change of Grade, the decision whether to approve the Ticket Reversal will be in our absolute discretion.
- (b) Subject to clause 13(c), if a Ticket Reversal is approved in accordance with clause 13(a), you must pay all Ticket Reversal Fees.
- (c) We may decide to deduct the amounts that you must pay to us under clause 13(b) from any Pool Payments payable by us to you.
- (d) Upon execution of the Ticket Reversal, your Delivery of Grain will be treated as having been Delivered from the date the Ticket Reversal is processed by us and the Contract amended accordingly.

14 Force Majeure

- (a) If you are subject to a Force Majeure Event, subject to you discharging your obligations under clause 14(b), your obligations under the Contract are suspended to the extent, and for as long as, the Force Majeure Event continue.
- (b) If you are affected, or likely to be affected, by a Force Majeure Event you must immediately notify us and provide:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the extent of its impact on your obligations under the Contract; and
 - (iv) the steps taken (or that you propose to take) to rectify it.

-
- (c) If you claim that a Force Majeure Event exists, you must use your best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible.
 - (d) If we are prevented in whole or in part from carrying out our obligations under the Contract as a result of any cause beyond our reasonable control, we must promptly give a notice to you specifying the cause and the measures we propose to take to remedy or abate the cause. Following this notice and while the cause continues, the obligations which cannot be performed because of the cause shall be suspended.

15 Limitation of Liability

- (a) Priag Pools enters into the Contract solely in its capacity as operator of the Pool and is not liable in any other capacity.
- (b) The Pool Manager enters into the Contract solely in its capacity as manager of the Pool and is not liable in any other capacity.
- (c) Subject to this clause 15, the liability of Priag Pools and the Pool Manager in respect of any cause of action, Claim or Loss arising:
 - (i) under or in connection with the Contract;
 - (ii) in connection with any transaction, conduct or any other agreement related to the Contract; or
 - (iii) under or in connection with (to the extent permitted by law) any representation or undertaking given or to be given in connection with the Contract,(each, a **Pool Claim**), is limited to the value of the assets of the Pool.
- (d) Subject to clause **Error! Reference source not found.**, you must not, in respect of any Pool Claim:
 - (i) bring proceedings against Priag Pools other than in its capacity as operator of the Pool;
 - (ii) bring proceedings against the Pool Manager other than in its capacity as manager of the Pool;
 - (iii) seek to appoint an administrator or liquidator over Priag Pools or the Pool Manager;
 - (iv) commence the winding-up, dissolution, official management or administration of Priag Pools or the Pool Manager; or
 - (v) appoint a receiver, receiver and manager, administrative receiver or similar official to all or any of the assets of Priag Pools or the Pool Manager.
- (e) To the maximum extent permitted by law, unless expressly provided in the Contract, all implied terms, conditions, warranties and any other additional

obligations in relation to the performance of the Pool or nature of the Pool are excluded from the Contract.

- (f) To the extent that any law implies into the Contract any term, condition, warranty or additional obligations that cannot be lawfully excluded under clause 15(e), then the liability of Priag Pools and the Pool Manager in respect of a breach of that term, condition, warranty or additional obligation is limited to the maximum extent (if any) permitted by that law, as if the provisions effecting such limitation are incorporated in the Contract.
- (g) Notwithstanding any other provision in the Contract, save for negligence, breach of this Contract or fraud on the part of Priag Pools or the Pool Manager:
 - (i) neither Priag Pools nor the Pool Manager will be liable to you for any damage to or Loss, theft or deterioration of the Grain; and
 - (ii) neither Priag Pools nor the Pool Manager will be liable to you for Loss or damage arising or resulting from any statement, information, or advice made, given or Published, in relation to the Contract.

16 Indemnity

- (a) As a separate and independent obligation, you agree that:
 - (i) at your request Priag Pools and the Pool Manager have agreed to enter into the Contract to accept transfer of legal title to your Grain on these Terms and Conditions and the terms and conditions of the Payment Option and you agree and acknowledge that Priag Pools and the Pool Manager enter into the Contract (including any oral agreement) in reliance on the indemnity in this clause 16(a);
 - (ii) you unconditionally and irrevocably indemnify Priag Pools and the Pool Manager against any and all Claims or Losses which may be made or brought against or suffered or incurred by Priag Pools or the Pool Manager arising as a result of your acts or omissions in connection with this Contract (whether oral or written) becoming unenforceable, including any money or other amounts that are not recoverable from you under any such oral or written contract, provided the contract has not become unenforceable due to the negligent or fraudulent acts of a Priag Entity;
 - (iii) you must pay to Priag Pools immediately on demand any amounts due to Priag Pools or the Pool Manager under this clause 16(a). Priag Pools may make such a demand on you from time to time;
 - (iv) the indemnity in this clause 16(a) extends to any money that is not recoverable:
 - (A) because of any legal limitation, disability or incapacity of or affecting you or any other person;
 - (B) because any transaction relating to that money was void, illegal, voidable or unenforceable except where caused by the negligent or fraudulent acts of Priag Pools or the Pool Manager;

-
- (C) whether or not you knew or should have known any of the relevant matters or facts; and
 - (D) because of any fact or circumstance that is not caused by the negligent or fraudulent acts of Priag Pools or the Pool Manager;
 - (v) this provision is a continuing indemnity for all amounts referred to in this clause 16(a);
 - (vi) your obligation under this clause 16(a) is a primary obligation and neither Priag Pools nor the Pool Manager are obliged to proceed against or enforce any other right against any person or property or demand payment from any other person before making a demand for payment by you under this clause 16(a);
 - (vii) your obligations under this clause 16(a) are absolute and unconditional, and are not subject to any set-off, counter claims or conditions (other than pursuant to clause 6;
 - (viii) if any transaction or payment under the Contract is void, voidable or otherwise unenforceable or refundable and such circumstances have not been caused by the negligent or fraudulent acts of a Priag Entity:
 - (A) both Priag Pools and the Pool Manager are entitled against you to all rights under the Contract that they would have had if the transaction or payment had not occurred or been made, as the case may be; and
 - (B) you agree and undertake to do all things and sign such documents necessary to restore to Priag Pools and to the Pool Manager their rights under the Contract immediately before that transaction or payment.
 - (b) Except to the extent such an agreement would constitute an offence by Priag Pools or the Pool Manager, you agree to reimburse, pay and indemnify Priag Pools or the Pool Manager:
 - (i) against any Claim by any person claiming an interest in any Grain Delivered by you or the proceeds of sale of such Grain (other than an interest created or granted by Priag Pools or the Pool Manager);
 - (ii) for any Claims or Losses incurred by Priag Pools or the Pool Manager in connection with:
 - (A) any representation, warranty or statement made or repeated by you that is inaccurate, untrue or misleading (whether by omission or otherwise) or any breach by you, your officers, employee agents or contractors;
 - (B) discharging any Encumbrance that affects the Contract;
 - (C) any damage, death or injury that you, your officers, employees, agents or contractors cause to any property or person in connection with the Contract;

-
- (D) your failure to comply with the relevant grain receival standards referred to in clause 2.3(c);
 - (E) your failure to comply with the relevant Pesticide Standards referred to in clause 2.3(d); and
 - (F) the Supplier Information provided by you or the provider of your National Grower Register Number not being accurate and complete and, notwithstanding any other provision in the Contract, Priag Pools and the Pool Manager will not be liable to you for any Loss or damage arising or resulting from that information not being accurate and complete;
- (iii) for all Supplier Liabilities; and
 - (iv) for all government charges and any Taxes (other than income tax and GST), duties and charges payable in respect of the Contract and the transactions under it.
- (c) Except to the extent such an agreement would constitute an offence by Priag Pools or the Pool Manager, you agree to indemnify Priag Pools and the Pool Manager for all Deductions other than those already deducted by Priag Pools and the Pool Manager in determining any amount paid or payable by Priag Pools or the Pool Manager for a Delivery of Grain by you under the Contract.

17 Privacy

- (a) Subject to any law to the contrary and provided you have not indicated otherwise, you authorise us to collect and use any information related to you and the performance of the Contract (which includes but is not limited to your personal information) for the purpose of managing our commercial relationship with you including but not limited to:
 - (i) providing our products or services which you have agreed to obtain from us or any other Priag Entity for any other purposes relating to our business operations and our dealings with you;
 - (ii) contacting you on an on-going basis by email, telephone and other means for the purpose of direct marketing, unless you withdraw your consent by opting out or by calling the Pool Manager;
 - (iii) for the purpose of any arbitration proceeding relating to the Contract or a contract between you and us or any Priag Entity.
- (b) In dealing with your personal information we shall comply with the standards set out in the *Privacy Act 1988* (Cth) and the Australian Privacy Principles, as they apply to your personal information.
- (c) You represent that you have obtained and read the document entitled 'Summary of Priag's Privacy Policy', available from *priag.com.au* or from the Pool Manager, which contains information about how personal information held by us and Priag Entities may be accessed and corrected and how complaints can be made and are managed.

18 Relationship of parties

- (a) Nothing in these Terms and Conditions, or the terms and conditions of the Payment Option you select, is to be construed as constituting a partnership, trust, joint venture or agency relationship between the parties.
- (b) You agree that, if a contractor makes any of your Deliveries of Grain, the contractor acts on your behalf and with your authority.

19 Notices

19.1 General

Unless this deed expressly states otherwise, a notice, consent, approval, waiver or other communication (**notice**) in connection with this deed must be in writing and signed by the sender or a person authorised by the sender. A notice may be given by hand delivery, prepaid post, facsimile or by electronic message to the recipient's current address for service for notices as set out in this deed or as amended by notice from time to time.

19.2 When effective

A notice given under clause 19.1 will be deemed to be received:

- (a) if hand delivered, at the time of delivery;
- (b) if sent by prepaid post, three Business Days after the date of posting or seven Business Days after the date of posting if posted to or from a place outside Australia;
- (c) if sent by facsimile, when the sender's fax machine produces a report confirming the successful transmission of the entire notice including the relevant number of pages and the correct destination fax machine number or name of recipient; or
- (d) if sent by electronic message, when the sender receives an automated message confirming delivery or eight hours after the message has been sent (as recorded on the device from which the sender sent the message) unless the sender receives an automated message that the electronic message was not delivered or the sender knows or reasonably should know that there is a network failure and accordingly knows or suspects that the electronic message was not delivered,

unless a notice is received after 5.00 pm on a Business Day in the place of receipt or at any time on a non Business Day, in which case, that notice is deemed to have been received at 9.00 am on the next Business Day.

19.3 Addresses for notices

Any notice given in connection with this deed must be given to the registered office of the relevant party or to any other address as that party may notify to the other party.

Any notice given in connection with this deed must be given to the address set out at the commencement of this deed or in a Deed of Accession of the relevant party or to any other address as that party may notify to the other party.

20 Jurisdiction

The parties submit to the nonexclusive jurisdiction of the courts of New South Wales and the Federal Court of Australia and any courts that may hear appeals from those courts about any proceedings in connection with the Contract.

21 General

21.1 Entire agreement

The Contract together with these Terms and Conditions and the terms and conditions of the relevant Payment Option constitute the entire agreement between the parties about its subject matter and supersedes all previous communications, representations, understandings or agreements between the parties on the subject matter.

21.2 Inconsistency

If there is any inconsistency between the documents forming part of or contemplated by the entire agreement between the parties as set out in clause 21.1, then the following order of priority applies to determine which provisions prevail to the extent of the inconsistency:

- (a) the Confirmation;
- (b) these Terms and Conditions; and
- (c) the terms and conditions of the Payment Option.

21.3 Dispute resolution

The parties agree that any dispute arising under or in connection with the Contract will be dealt with in accordance with the following procedure:

- (a) the parties will first contact each other directly and attempt to resolve the dispute by mutual resolution;
- (b) where no resolution is reached in accordance with clause 21.3(a), the parties agree that the Grain Trade Australia Arbitration and Dispute Resolution Rules will apply and any dispute will be resolved pursuant to those dispute resolution procedures.

21.4 Severability

If any provision of the Contract, these Terms and Conditions, or the terms and conditions of the Payment Option selected are void, voidable by a party, unenforceable, invalid or illegal and would not be so if a word or words were omitted, then that word or those words are to be severed and if this cannot be done, the entire provision is to be severed from the Contract without affecting the validity or enforceability of the remaining provisions of the Contract.

21.5 Effect of termination or expiry

Clauses 6, 11, 15 and 16 will continue to apply after expiration or termination of the Contract.

21.6 Waiver

- (a) No failure to exercise or delay in exercising any right given by or under the Contract, these Terms and Conditions, or the terms and conditions of the Payment Option selected, constitutes a waiver and the party may still exercise that right in the future. No single or partial exercise of any right precludes any other or further exercise of that or any other right.
- (b) Any waiver of any provision of the Contract, these Terms and Conditions, or the terms and conditions of the Payment Option selected, or a right created under them must be in writing signed by the party giving the waiver and is only effective to the extent set out in that written waiver.

21.7 Time of the essence

In respect of the Contract, these Terms and Conditions, and the terms and conditions of the Payment Option selected, time is of the essence.

Priag Pool Contract Terms and Conditions

Schedule 1 - Payment Option Definitions

The following terms will have the same meaning in Schedules 2 to 5 unless specified otherwise:

Actual Pool Return means, in respect of a Grade of Grain included by us in a Pool in a Crop Year, the amount per tonne Published by us as base rate actual pool return for that Grade in that Pool. The actual pool return is net of Operating Costs and is denominated in Australian dollars and is quoted exclusive of GST. We may in our absolute discretion Publish different actual pool returns within a Pool by reference to different grouping of Grain according to Grade and or place of delivery and such other matters determined by us from time to time, including allocating the Operating Costs of the Pool on a differential basis in calculating the different actual pool returns within a Pool.

Advanced Payment Agreement means the Contract between you and us which is made up of:

- (a) the Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions set out in Schedule 4 (Advance Payment Option).

Advanced Payment Option means the Payment Option referred to in clause 3(a)(iii) of the Terms and Conditions.

Amount Owing means, at any time, in respect of a Crop Year, the amount that you owe to the Pool Manager at that time for all Loans provided to you in respect of all your Deliveries of Grain to Priag Pools in that Crop Year, together with all fees, costs, charges and expenses (including Enforcement Expenses) and all accrued but unpaid interest on those Loans that are payable or owing (whether actual or contingent, present or future), by you to the Pool Manager.

Business Day means a day that is not a Saturday, Sunday or public holiday on which banks are open for general banking business in Sydney.

Claim means any claim, notice, demand, action, recovery, proceeding, litigation, investigation or judgment of any kind.

Confirmation is the written record prepared by us at the time of formation of the Contract in accordance with clause **Error! Reference source not found.** of the Terms and Conditions.

Contract means the contract between you and us comprising:

- (a) the Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions of the Payment Option,

formed upon our acceptance of your Offer and recorded by the Confirmation.

Crop Year means the grain harvesting and delivery season to which a particular Delivery or Deliveries relate.

Deductions means, in relation to a Delivery of Grain, the amount determined by us to be the costs incurred or applied by us in connection with that Grain including:

- (a) transport costs incurred;
- (b) location differentials applied to sales of Grain; and
- (c) any other site costs imposed by a BHC at that particular site that are not already included in the operating costs.

Deferred Payment Agreement means the Contract between you and us which is made up of:

- (a) the Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions set out in Schedule 3 (Deferred Payment Option).

Deferred Payment Option means the Payment Option referred to in clause 3(a)(ii) of the Terms and Conditions.

Deliver means:

- (a) in respect of a physical delivery of your Grain, when you unload that Grain at the instruction of a BHC representative; and
- (b) in respect of a delivery by way of In-store Transfer of Grain, when an In-store Transfer of Grain occurs,

and 'Delivery' and 'Delivered' have similar meanings.

Delivered Tonnage means, in relation to the Contract, the quantity (in tonnes) of the Grain Delivered and accepted by us under the Contract.

Distribution Payment Agreement means the Contract between you and us which is made up of:

- (a) the Terms and Conditions;
- (b) the Confirmation;
- (c) the terms and conditions set out in Schedule 2 (Distribution Payment Option).

Distribution Payment Option means the Payment Option referred to in clause 3(a)(i) of the Terms and Conditions.

Drawdown Amount means each principal amount provided or to be provided as a loan under a Harvest Loan Agreement as described in Schedule 5 (Harvest Loan option).

Enforcement Expenses means the costs incurred by Priag Pools, the Pool Manager or another Priag Entity in seeking to recover an amount owing by you to Priag Pools, the Pool Manager or another Priag Entity under the Contract.

Estimated Costs means, in relation to a Delivery of Grain, the sum of our estimate of the following amounts:

- (a) Supplier Liabilities relating to that Delivery of Grain;
- (b) Estimated Deductions relating to that Delivery of Grain; and
- (c) Interest which is likely to accrue on your Loan relating to that Delivery of Grain under clause 4 of Schedule 5 (Harvest Loan option).

Estimated Deductions means, in relation to a Delivery of Grain by you to us, our estimate of the Financing Costs relating to that Delivery that can be ascertained by contacting the Pool Manager.

Final Payment has the meaning given in Schedule 4 (Advance Payment Option).

Final Pool Payment has the meaning given in the relevant Payment Option.

Final Pool Payment Date means, in relation to Grain Delivered by you to us in a Crop Year, the date on which we Publish either the amount of the Final Pool Payment or that no Final Pool Payment will be paid, for that Grain in that Crop Year.

Financing Costs means, in relation to a Delivery of Grain by you to us under an Advanced Payment Agreement, the amount that you must pay to us for accepting transfer of legal title to Grain under the relevant Contract. The Financing Costs (the calculation of which we are not obliged to disclose to you) applicable to you will be determined by us with reference to our cost of funds to make payments to you under the Contract and our desired rate of return and will be the amounts specified in a statement sent to you by us as the 'finance costs', unless we have agreed with you in writing to determine, calculate or fix the financing cost on a different basis.

First Payment has the meaning given in Schedule 4 (Advance Payment option)

Grain means wheat or barley which, in relation only to the Contract, is specified in the Confirmation.

Harvest Loan Agreement means the Contract between you and us which is made up of:

- (a) the Terms and Conditions;
- (b) the Confirmation; and
- (c) the terms and conditions set out in Schedule 5 (Harvest Loan Option).

Harvest Loan Option means the Payment Option referred to in clause 3(a)(iv) of the Terms and Conditions.

Insolvent means bankrupt, unable to pay debts as and when they fall due, in receivership, in receivership and management, in liquidation, in provisional liquidation, under any form of administration, wound up, dissolved, deregistered, subject to any arrangement, assignment

or composition with creditors, protected from creditors under any statute or in receipt of protection under statute.

Interest Payable means, in relation to the Pool Payment, the interest on so much of the funds held by the relevant Pool as we determine is attributable to participants in that Pool who deliver Grain under the applicable Payment Option, as calculated by reference to an interest rate determined by us in our absolute discretion.

Interest Rate means, at any time, the interest rate Published by us in respect of the Pool. These rates are variable rates set by us from time to time. A varied rate is applicable on and from the day that it is Published on *priag.com.au*. If an interest rate is not Published for the current season the Interest Rate shall be taken to be the Interest Rate Published for the most recent preceding managed program.

Interim Pool Payment has the meaning given in the relevant Payment Option.

Loan means each loan provided by us in respect of each Delivery of Grain by you under the Harvest Loan Agreement, which includes each Drawdown Amount provided or to be provided by us in respect of those Deliveries under clauses 2 and 3 of Schedule 5 (Harvest Loan option) and each amount to be treated as a loan under clause 4 of Schedule 5 (Harvest Loan option). For the avoidance of doubt, any loan provided by us to you subsequent to the Original Loan Facility is an increase of the amount loaned to you under the Original Loan Facility and all such loans constitute a single loan pursuant to a single Harvest Loan Agreement.

Loan Limit means, in respect of a Delivery of Grain which you have elected to enter into a Harvest Loan Agreement, the maximum principal amount that the Pool Manager is prepared to lend to you in respect of that Delivery of Grain as determined and adjusted from time to time in accordance with clause 2 of the terms and conditions of the Harvest Loan Agreement outlined in Schedule 5 (Harvest Loan option), which can be ascertained by contacting the Pool Manager.

Loss means any loss, costs, charges, outgoings, liabilities, damages, expenses or indebtedness of any description.

Nominated Harvest Rate means a dollar per Tonne amount which is nominated by us and used to determine the amount payable under Schedule 4 (Advance Payment Option) and Schedule 5 (Harvest Loan Option).

Operating Costs means, in relation to the Pool, all fees, Losses arising from the establishment and operation of the Pool, the marketing and sale of the grains (including costs associated with hedging activities), Claims incurred by us or the Pool in relation to the Grain, Losses and Claims incurred by us (including our overhead charges) which we determine to be attributable to, arising from or in connection with the buying, holding, sale, risk management and disposal of the Grain and the overall management of the Pool (including its establishment and winding-up), howsoever incurred and the Management Fee.

Original Loan Facility means the loan facility we agreed to provide to you in relation to the first load of Grain delivered by you to us, in accordance with the Harvest Loan Agreement.

Overpaid means, at any time, the amount you have been paid in excess of your entitlement (or likely entitlement) under a contract with us or another Priag Entity and includes without limitation a payment made to you in error.

Pool means the grouping of Grain according to Grain, Grade, time and/or place of Delivery and any other matter determined by a Priag Entity, the legal title to which has been transferred to Priag Pools.

Pool Manager means Priag Marketing Pty Limited ACN 100 425 385 or any other entity who has been appointed as manager of the Grain held by Priag Pools.

Pool Payment means, for the Distribution Payment Agreement, Deferred Payment Agreement and Harvest Loan Agreement, any amount paid or payable by us to you in respect of Grain delivered under the Contract reduced by any Deductions and Supplier Liabilities and such other amounts in accordance with the Contract, unless the payment is already adjusted for such Deductions, Supplier Liabilities and other amounts

Priag Entity means Priag Pools, the Pool Manager or one of their Related Bodies Corporate, acting directly or through an agent or sub-agent, as the context requires.

Priag Pools means Priag Marketing Pools Pty Ltd ACN 638 537 041 or any other entity who has been appointed by it to hold legal title to the Grain forming the assets of the Pool.

Published means to make information available to potential participants in the Pool. If information is provided in writing to you under these Terms and Conditions, that information shall prevail over any Published information unless the terms of that Published information specifically provide otherwise.

Supplier Liabilities means, in relation to a Delivery of Grain by you to us under a Contract, the total of any levies, tolls and royalties payable to third parties relating to that Delivery of Grain, and any other fees, charges or other amounts to be collected by us from you or that are otherwise payable by you to us in connection with you selling that Grain and includes for example on-farm pick up, drying charges and storage charges incurred by you prior to the title in the Grain passing to us.

Terms and Conditions mean the terms and conditions set out in this document entitled 'Priag Pool Contract Terms and Conditions'.

Tonnage means, in relation to a Delivery of Grain, the number of tonnes in that Delivery.

Schedule 2 - Distribution Payment Option

1 Application

The terms and conditions in this Schedule 2 apply:

- (a) if you select the Distribution Payment Option and your Offer is accepted by us; or
- (b) you make an Offer which is accepted by us and you have not specified the relevant Payment Option.

The terms and conditions in this Schedule 2, together with the Terms and Conditions and the Confirmation, form a Distribution Payment Agreement.

2 Price for Grain sold

- (a) In respect of a Delivery of Grain under a Distribution Payment Agreement, Priag Pools may pay periodic interim Pool Payments of an amount to be determined by Priag Pools in its absolute discretion (each an **Interim Pool Payment**).
- (b) In respect of a Delivery of Grain under a Distribution Payment Agreement, Priag Pools will pay a Final Pool Payment (if any) on the Final Pool Payment Date. The GST-exclusive Final Pool Payment is calculated as follows:

$$\text{Final Pool Payment} = (A \times B) - C - D - E$$

where:

A means the Delivered Tonnage;

B means Actual Pool Return;

C means Supplier Liabilities;

D means Deductions;

E means total Interim Pool Payments.

- (c) The Pool Payment referred to in this clause 2 will be made in the manner set out in clause 5 of the Terms and Conditions.

Schedule 3 - Deferred Payment Option

1 Application

The terms and conditions in this Schedule 3 apply if you select the Deferred Payment Option, and your Offer is accepted by us. The terms and conditions in this Schedule 3, together with the Terms and Conditions and the Confirmation, form a Deferred Payment Agreement.

2 Price of Grain sold

- (a) In respect of a Delivery of Grain under a Deferred Payment Agreement, the Pool Manager may pay periodic interim Pool Payments from July following the date when you Delivered Grain to Priag Pools (each an **Interim Pool Payment**). Such payment will be in an amount to be determined by the Pool Manager in its absolute discretion and will, in the case of the first such payment, include any applicable Interest Payable on the Interim Pool Payment.
- (b) In respect of a Delivery of Grain under a Deferred Payment Agreement, the Pool Manager will pay from July following the date when you Delivered the Grain to Priag Pools, the Final Pool Payment on the Final Pool Payment Date. The GST-exclusive Final Pool Payment is calculated as follows:

$$\text{Final Pool Payment} = (A \times B) + C - D - E - F$$

where:

A means the Delivered Tonnage;

B means Actual Pool Return;

C means Interest Payable;

D means Supplier Liabilities;

E means Deductions;

F means total Interim Pool Payments.

- (c) All payments made in accordance with this clause 2 will be made in the manner set out in clause 5 of the Terms and Conditions.

Schedule 4 - Advance Payment Option

1 Application

The terms and conditions in this Schedule 4 apply if you select the Advanced Payment Option, and your Offer is accepted by us. The terms and conditions in this Schedule 4, together with the Terms and Conditions and the Confirmation, form an Advanced Payment Agreement.

2 Price for Grain sold

- (a) In respect of a Delivery of Grain under an Advanced Payment Agreement, the Pool Manager:
- (i) will pay a First Payment within 14 days of the later of:
 - (A) the date the Contract is entered into as specified in the Confirmation; or
 - (B) the date your Grain is Delivered;
 - (ii) may pay periodic interim Pool Payments following the First Payment (each an **Interim Pool Payment**) of an amount to be determined by the Pool Manager in its absolute discretion; and
 - (iii) may pay a Final Payment when the Pool is wound up.

- (b) The First Payment the Pool Manager will make to you in respect of a Delivery of Grain under an Advanced Payment Agreement is a GST-exclusive dollar amount calculated as follows:

$$\text{First Payment} = (A \times B) - C$$

Where

A means the Delivered Tonnage;

B means Nominated Harvest Rate;

C means Estimated Costs (including interest costs).

- (c) The Final Payment the Pool Manager will make to you in respect of a Delivery of Grain under an Advanced Payment Agreement is a GST-exclusive dollar amount calculated as follows:

$$\text{Final Payment} = (A \times B) - (C - E) - F - G$$

Where

A means the Delivered Tonnage;

B means Actual Pool Return;

C means Supplier Liabilities and Deductions;

E means Estimated Costs;

F means First Payment;

G means total Interim Pool Payments.

- (d) Any payments referred to in this clause 2 will be made in the manner set out in clause 5 of the Terms and Conditions as if the Payment is a Pool Payment.

3 Overpayment

- (e) Where the Final Payment amount calculated in accordance with clause 2(c) of this Schedule 4 results in a negative number, you are taken to have been Overpaid by the amount so calculated and must repay the relevant amount to the Pool Manager within 14 days of receipt of notice from the Pool Manager instructing you to do so.
- (f) The Pool Manager may in its absolute discretion take action against you to recover such amounts that have been Overpaid to you in accordance with clause 21.7(e) of this Schedule 4.
- (g) Where the Pool Manager takes action against you in accordance with clause 21.7(f) of this Schedule 4 you will be liable for all related Enforcement Expenses.

Schedule 5 - Harvest Loan Option

1 Application

Subject to clause 2, the terms and conditions in this Schedule 5 apply to you if you select the Harvest Loan Option, and your Offer is accepted by us. The terms and conditions of this Schedule 5 together with the Terms and Conditions and the Confirmation, form a Harvest Loan Agreement.

2 Your loan facility

- (a) If you select the terms and condition of this Schedule 5 as your Payment Option, you apply to the Pool Manager, and the Pool Manager agrees to make available to you:
- (i) in relation to your first delivery of Grain, the Original Loan Facility; and
 - (ii) in all other circumstances, an increase to the borrowing limit under the Original Loan Facility,

in an amount up to the Loan Limit in respect of that Delivery of Grain on the terms of the Harvest Loan Agreement.

- (b) No Harvest Loan Agreement is formed between you and the Pool Manager and the Pool Manager does not agree to make available any loan facility to you if an Encumbrance exists in respect of any Grain delivered by you or, if you are an individual, you have not completed and returned to the Pool Manager a business purpose declaration. In these circumstances, a Distribution Payment Agreement is formed instead.
- (c) The Pool Manager will determine your Loan Limit in respect of each Delivery of Grain. The Loan Limit the Pool Manager will make available to you in respect of a Delivery of Grain is a dollar amount calculated as follows:

$$\text{Loan Limit provided at harvest} = (A \times B) - C$$

Where

A means the Delivered Tonnage;

B means Nominated Harvest Rate;

C means Estimated Costs.

- (d) Subject to clause 2 and clause 3, the Loan Limit will be provided to you within 14 days of the later of:
- (i) the date the Contract is entered into as specified in the Confirmation; or
 - (ii) the date your Grain is Delivered.

-
- (e) The Pool Manager may at any time and in its absolute discretion increase the Loan Limit in respect of a Delivery of Grain and will notify you of the Drawdown Amount equal to the increase in your Loan Limit and credit the amount of that increase to the bank account recorded in your Supplier Information.
 - (f) In respect of any Delivery of Grain under the Harvest Loan Agreement, you unconditionally and irrevocably direct the Pool Manager to satisfy any Priag Debt and any Encumbrances over any Grain delivered by you from the Drawdown Amount payable to you, and then pay any remaining balance to you. The Pool Manager is not responsible for any Loss suffered because of delay in payment of the Drawdown Amount payable to you.

3 Payment of Drawdown Amounts

- (a) Subject to clause 3(b), you agree and the Pool Manager accepts that the full amount of your Loan Limit will be drawn down automatically following each Delivery of Grain you make under the Harvest Loan Agreement.
- (b) The Pool Manager is only obliged to provide you the Drawdown Amount in respect of each Delivery of Grain in a Crop Year if:
 - (i) any fees payable by you in connection with the Harvest Loan Agreement have been paid; and
 - (ii) the Pool Manager is satisfied that you are not in default under the Harvest Loan Agreement or any other agreement that you may have with a Priag Entity or any other finance agreement that you have with any other person.
- (c) You agree that all amounts drawn down in accordance with clause 3(a) and 3(b) will constitute the Amount Owing to the Pool Manager under the Harvest Loan Agreement.

4 Interest

- (a) Subject to clause 7(c), you agree to pay the Pool Manager interest at the Interest Rate on the amount of each Loan over the term of that Loan.
- (b) Interest is calculated on your daily Loan balance. On the last Business Day of each month, accrued but unpaid interest is treated as a further Loan (on which interest will accrue) under the Harvest Loan Agreement by being capitalised and added to the relevant Loan. Amounts of unpaid interest that have not yet been capitalised will be deducted from your Pool Payment along with the other amounts owing in respect of a Crop Year in accordance with clause 5 of the Terms and Conditions.

5 Price of Grain sold

- (a) Subject to clauses 5(c), 5(d) and 5(e), in respect of a Delivery of Grain under a Harvest Loan Agreement, Priag Pools may pay periodic interim Pool Payments of an amount to be determined by Priag Pools in its absolute discretion (each an **Interim Pool Payment**).

-
- (b) Subject to clause **Error! Reference source not found.**, in respect of a Delivery of Grain under a Harvest Loan Agreement, Priag Pools will pay the Final Pool Payment on the Final Pool Payment Date. The GST-exclusive Final Pool Payment is calculated as follows:

$$\text{Final Pool Payment} = (A \times B) - C - D - E$$

Where:

A means the Delivered Tonnage;

B means Actual Pool Return;

C means Supplier Liabilities;

D means Deductions;

E means total Interim Pool Payments.

- (c) All payments made in accordance with this clause 5 will be made in the manner set out in clause 5(b) of the Terms and Conditions.
- (d) Where the Pool Payments payable in accordance with this clause 5 are insufficient to discharge the Amount Owing to the Pool Manager, you agree that the outstanding Amount Owing is a debt payable by you to the Pool Manager which becomes immediately due and payable by you upon the provision of 30 calendar days' written notice from the Pool Manager.
- (e) Where you fail to make repayment of the outstanding Amount Owing pursuant to clause 5(d), you agree that the Pool Manager may, in its absolute discretion, take action against you to recover the outstanding Amount Owing and that you will be liable for all associated Enforcement Expenses.

6 You make representations and warranties on drawdown

You represent and warrant separately to the Pool Manager each time the Pool Manager provides you with a Drawdown Amount that:

- (a) the representations and warranties set out in clause 11 of the Terms and Conditions are true and correct; and
- (b) any Drawdown Amount provided to you will be used wholly or predominantly for business or investment purposes, other than investment in residential property, and is not provided or intended to be provided for personal, domestic or household purposes.

7 Default

- (a) You are in default (**Default**) if:
- (i) any of the representations and warranties that you made under the Harvest Loan Agreement are untrue or become untrue;

-
- (ii) you become Insolvent; or
 - (iii) you are otherwise in breach of the Harvest Loan Agreement.
 - (b) If you are in Default, the Pool Manager may in its absolute discretion immediately suspend, cancel or terminate the loan facility made available to you under the Harvest Loan Agreement, terminate the Harvest Loan Agreement and/or, notwithstanding the provisions of clause 5, declare at any time by notice to you that all or part of the Amount Owing in respect of that Crop Year is immediately due for payment and may seek to recover the entire Amount Owing from you.
 - (c) If you are in Default:
 - (i) interest will be calculated under clause 4 at a rate equal to the Interest Rate which would be applicable to the Amount Owing by you plus five percent, rather than the Interest Rate; and
 - (ii) you must pay us any Enforcement Expenses.

8 Provision of information

- (a) You agree to provide Priag Pools and the Pool Manager with all information required to enable Priag Pools and the Pool Manager to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)* including:
 - (i) verification of the name, address and date of birth of all parties to the Harvest Loan Agreement; and
 - (ii) if you are a company or trust, any additional information necessary in order to comply with the AML/CTF Act requirements; and
- (b) Notwithstanding any other provision in the Harvest Loan Agreement, Priag Pools or the Pool Manager shall suspend or refuse any transaction they suspect is, or is likely to be in breach of the AML/CTF Act and shall not be liable to you for any Loss if they do so.
- (c) Priag Pools and the Pool Manager shall take any action that they reasonably consider is necessary to comply with the AML/CTF Act, including disclosing any information they have about you to the AML/CTF regulators.