

## TERMS AND CONDITIONS

### 1. Interpretation

1.1 In this agreement unless the context otherwise requires the following terms shall have the following meanings:

- (a) **"AGL"** means Alliance Group Limited.
- (b) **"AGL Supply Period"** means in respect of an Animal (if applicable) the period specified in the Key Terms Letter commencing on the date the Farmer takes possession of the Animal under clause 2.
- (c) **"AGL Supply Rate"** means in respect of an Animal (if applicable) the rate specified in the Key Terms Letter unless otherwise altered in accordance with clause 6.5.
- (d) **"AML/CFT Act"** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and includes any applicable regulations and any successor enactment or enactments.
- (e) **"Animal"** or **"Animals"** means any or all livestock which HFL supplies to the Farmer in connection with this agreement and includes the progeny of the same as applicable.
- (f) **"Date of Agistment"** means in respect of an Animal the date the Animal is provided by HFL to the Farmer under clause 2.1.
- (g) **"Default"** means any of the events specified in clause 7.1.
- (h) **"Default Rate"** means the per annum rate of 10% plus the per annum overdraft rate charged to HFL by its banker or altered in accordance with clause 6.5.
- (i) **"Delivery"** means in respect of an Animal delivery of the Animal in accordance with clause 4.1 or clause 4.2 but shall not include HFL taking possession of the Animals consequent upon a default by the Farmer under clause 7.
- (j) **"Emissions Charges"** means any liability howsoever arising referable to any emission, waste or by-product of an Animal.
- (k) **"Establishment Fee"** means any establishment fee payable by the Farmer specified in a Key Terms Letter.
- (l) **"Farm"** means the property located at the address specified in this agreement or such other property approved by HFL in writing.
- (m) **"Farmer"** means the person, partnership, company or trust named as farmer in this agreement and in the case of a partnership or trust includes each partner of the partnership or trustee of the trust as the case may be in their personal capacity both joint and several.
- (n) **"Farmer Account"** means a running account maintained by HFL in respect of a line or lines of Animals agisted to the Farmer which identifies accrued fees, any costs, any Margin, any Loss, any payments made by HFL to the Farmer, and any payments received by HFL from the Farmer or for the Farmer's account.
- (o) **"Farmer Email Address"** means the Farmer's email address specified in this agreement and the Guarantor's email address specified in this agreement (if any).
- (p) **"Final Delivery Date"** means in respect of an Animal 364 days from the Date of Agistment of the Animal.
- (q) **"GST"** means goods and services tax.
- (r) **"Guarantor"** means each of the persons, partnerships, companies or trusts named as guarantors in this agreement and in the case of a partnership or trust includes each partner of the partnership or trustee of the trust as the case may be in their personal capacity both joint and several.
- (s) **"HFL"** means Hazlett Funding Limited and includes the successors and assigns of Hazlett Funding Limited.
- (t) **"Initial Value"** means in respect of an Animal the price (excl GST paid by HFL for the Animal (which may be an average across a line of Animals including accounting for subsequent deaths), together with, at HFL's sole and unfettered discretion, any applicable costs and fees (whenever incurred) relating to the Animal or this agreement including sale commission, transport fees, saleyard fees, Establishment Fees, Processing Fees, Procurement Fees and Renewal Fees.
- (u) **"Key Terms Letter"** means a letter sent by HFL to the Farmer in accordance with clause 2.3.
- (v) **"Margin"** or **"Loss"** means in respect of an Animal any Sale Proceeds of the Animal less costs of the Animal (which may be an average across a line of Animals) including the Initial Value of the Animal, fees under clause 6 and any other amounts the Farmer is liable to pay under this Agreement. A positive difference shall be a "Margin" and a negative difference shall be a "Loss".
- (w) **"Party"** means the Farmer, each Guarantor and any person or entity named in this agreement or who signs this agreement.
- (x) **"Per Head Fee"** means in respect of an Animal any applicable fixed sum or sums specified in the Key Terms Letter referable to the Initial Value of the Animal and the number of days (inclusive) between the date HFL pays the Initial Value for the Animal and the Sale Date of the Animal.
- (y) **"PPSA"** means the Personal Property Securities Act 1999 and includes any applicable regulations and any successor enactment or enactments.
- (z) **"PPSR"** means the Personal Property Securities Register.
- (aa) **"Processing Fee"** means any per Animal processing fee payable by the Farmer specified in a Key Terms Letter.
- (bb) **"Procurement Fee"** means any per Animal procurement fee payable by the Farmer specified in a Key Terms Letter.
- (cc) **"Renewal Fee"** means any renewal fee payable by the Farmer specified in a Key Terms Letter.

- (dd) **"Sale Date"** means in respect of an Animal the date that the Sale Proceeds are received by HFL for the Animal or, if there is no Delivery of the Animal, the Final Delivery Date or such earlier date as HFL may nominate.
- (ee) **"Sale Proceeds"** means in respect of an Animal the price (excl GST) received by HFL for the Animal (which may be an average across a line of Animals) sold in accordance with clause 4.3 or a price (excl GST) nominated by HFL in its sole and unfettered discretion consequent upon HFL repossessing the Animal, and in all cases shall be net of all costs including kill charges, sale commission, transport fees and saleyard fees.
- (ff) **"Secured Property"** means the property over which a security interest is granted under clause 5.4.
- (gg) **"Standard Rate"** means in respect of an Animal the rate specified in the Key Terms Letter or altered in accordance with clause 6.5.
- (hh) **"Usage Fee"** means in respect of an Animal from the date HFL pays the Initial Value for the Animal until the Sale Date of the Animal, a fee at:
  - a. the AGL Supply Rate in the case of an Animal subject to clause 11.1; or
  - b. the Standard Rate in all other cases, which shall capitalise calendar monthly and be calculated daily on the Initial Value of the Animal and capitalised usage fees (including any other fees and costs under this agreement which shall capitalise on the date they are incurred).

### 2. Agistment of Livestock and Key Terms Letter

- 2.1 HFL shall from time to time provide such Animals to the Farmer at the Farm as may be agreed by the Farmer and HFL.
- 2.2 By taking possession of an Animal the Farmer acknowledges and agrees that the Animal is in good health at the Date of Agistment and the Farmer acknowledges and agrees that its Initial Value is that determined by HFL in its sole and unfettered discretion which may include a "first in" valuation methodology where Animals within a line are sequentially provided to the Farmer.
- 2.3 HFL shall supply a Key Terms Letter in respect of the first line of Animals provided to the Farmer and may supply a Key Terms Letter in respect of any subsequent line of Animals provided to the Farmer.
- 2.4 The Farmer shall be deemed to have received a Key Terms Letter on the day it is emailed to the Farmer Email Address and the Farmer shall be deemed to have accepted the terms within the Key Terms Letter upon taking possession of the Animals to which the Key Terms Letter pertains regardless of whether possession is taken before such Key Terms Letter is deemed received by the Farmer.
- 2.5 In the event that HFL does not provide a Key Terms Letter in respect of a line of Animals, the terms pertaining to that line of Animals shall be those pertaining to the last line of Animals previously provided to the Farmer including any alterations under clause 6.5.

### 3. Care of Livestock and Farmer Obligations

- 3.1 The Farmer shall:
  - (a) Provide adequate feed for the Animals.
  - (b) Keep the Animals secure and ensure that the Animals are kept within secure boundary fences and do not stray.
  - (c) Care for the Animals and complete and maintain documentation / records in accordance with best practices and any applicable statute, regulation or standards, and comply with all directions, orders and requirements lawfully made by any person or body under the same.
  - (d) Ensure that the Animals are identifiable and comply with any identification method required by HFL in its sole and unfettered discretion.
  - (e) Ensure that the Animals are not exposed to, or do not contract, a communicable disease.
  - (f) Meet all Emissions Charges.
  - (g) Meet all expenses relating to the care of the Animals including the cost of any animal health and veterinary expenses.
  - (h) Report to HFL any deficiency in feed or disease or adverse condition of the Farm or other factor which may affect the condition of the Animals.
  - (i) Immediately notify HFL of any death loss or injury to the Animals.
  - (j) Not remove the Animals from the Farm without the prior written consent of HFL unless in the case of an emergency.
  - (k) Provide to HFL immediately upon request from time to time a report detailing the condition of the Animals.
  - (l) Provide to HFL immediately upon request from time to time details of any other livestock situated on the Farm.
  - (m) Permit HFL or any person designated by HFL access at all times to the Farm for the purpose of inspecting, treating, drafting, removing or taking possession or Delivery of the Animals and, at any time when requested by HFL, take all reasonable steps to procure the consent of the registered proprietor of the Farm or any other person having an interest in the Farm to the exercise of such rights.
  - (n) Not represent that it is the owner of the Animals or sell, lease, bail, agist or otherwise part with possession of the Animals or cause the Animals to be charged or encumbered or used as security or to become the subject of any lien.



- (o) Not permit a financing statement to be registered on the PPSR in respect of the Animals except in accordance with this agreement.
- (p) Immediately notify HFL if the Farmer receives, or the Farmer becomes aware that any person other than HFL receives, any sale proceeds of the Animals and immediately pay any proceeds received to HFL on demand.
- (q) Not change its name without giving at least 15 days' notice to HFL before the name change takes effect.
- (r) Not where the Farmer is a company change its registered office without giving at least 15 days' notice to HFL before the change of registered office takes effect.
- (iii) defer payment of the Margin including applying the same or any part thereof against any future Loss on the Farmer Account;

#### 4. Delivery and Sale of Livestock

- 4.1 The Farmer shall make such Animals as HFL may nominate available for inspection and delivery to HFL upon such date as HFL may nominate.
- 4.2 The Farmer shall make an Animal available for inspection and delivery to HFL upon its Final Delivery Date.
- 4.3 HFL shall as soon as reasonably practicable after Delivery sell the delivered Animals to a meat processor for slaughter or to such other purchaser as HFL deems appropriate.

#### 5. Title, Risk and Security

- 5.1 HFL shall at all times remain the legal owner of the Animals and any proceeds or progeny of the Animals.
- 5.2 The Farmer shall be responsible for an Animal between its Date of Agistment and its Delivery and bear all risk of losses howsoever arising.
- 5.3 The parties acknowledge this agreement does not constitute a lease for a term of more than one year as defined under the PPSA.
- 5.4 Notwithstanding clause 5.3 and without prejudice to the acknowledgement within clause 5.3, the Farmer hereby, including against the possibility that Animals may remain on Farm for longer than one year, grants a security interest to HFL over:
  - (a) the Animals, the proceeds of the Animals and the progeny of the Animals; and
  - (b) at HFL's sole and unfettered option, all present and after-acquired property of the Farmer, which option may be exercised at any time by the registration of a financing statement over all present and after-acquired property of the Farmer, each upon and incorporating the ADLS general terms registered pursuant to sections 209 Land Transfer Act 2017 under number 2018/4344 and the secured monies shall include all existing and/or future obligations of the Farmer under this agreement, any other agreement, or arising in any other manner whatsoever, owed to HFL or any entity or person related to HFL including any assignee and the Farmer permits HFL to register a financing statement or financing statements on the PPSR in respect of the said security interest(s) and the Farmer shall be liable to pay the registration fees upon the demand of HFL and the Farmer shall do all things necessary for HFL to register the financing statement or financing statements and perfect and maintain its security interest(s), including taking all reasonable steps to obtain from creditors of the Farmer their written acknowledgement of HFL's ownership and/or security interest and/or priority over the Animals.
- 5.5 The Farmer hereby waives any rights it may have under ss 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133 and 148 of the PPSA.

#### 6. Fees, Farmer Account and Payment

- 6.1 The Farmer shall be liable to pay to HFL the following fees which shall be debited to the Farmer Account:
  - (a) any Establishment Fee or Renewal Fee;
  - (b) any Processing Fee or Procurement Fee for an Animal;
  - (c) any Per Head Fee or Usage Fee for an Animal;
  - (d) any Emissions Charges for an Animal paid or payable by HFL;
  - (e) where:
    - (i) there is no Delivery of the Animal for any reason whatsoever including death or theft; or
    - (ii) there is a Default; or
    - (iii) in the case of an Animal subject to clause 11.1:
      - a. the Animal is a lamb when provided to the Farmer under clause 2.1 but is subsequently graded as a ewe or a ram or a wether by AGL; or
      - b. the Animal is not supplied directly from the Farmer to AGL for slaughter within the AGL Supply Period,

In addition to any other fees, from the earlier of the Farmer taking possession of the Animal under clause 2 or the date HFL pays the Initial Value for the Animal (or such later date as HFL in its sole and unfettered discretion may determine) until the Sale Date of the Animal (or such earlier date as HFL in its sole and unfettered discretion may determine), a fee at the Default Rate (or such lower fee rate or rates as HFL in its sole and unfettered discretion may determine) which shall be calculated daily on the Initial Value of the Animal.
- 6.2 Subject to clause 6.3, upon the Sale Date of an Animal, HFL shall determine the Margin or Loss (as the case may be) in respect of the Animal and:
  - (a) in the case of a Margin, HFL may in its sole and unfettered discretion:
    - (i) issue a statement to the Farmer showing the Margin and pay that Margin within 14 days of supplying such statement;
    - (ii) apply the Margin or any part thereof to any existing Loss on the Farmer Account;

- (b) in the case of a Loss, HFL may in its sole and unfettered discretion:
  - (i) issue a statement to the Farmer at any time showing the Loss and the Farmer shall pay such Loss within 14 days of HFL supplying such statement;
  - (ii) apply the Loss or any part thereof to any existing unpaid Margin on the Farmer Account;
  - (iii) defer recovery of the Loss or any part thereof and:
    - a. apply the same against any future Margin on the Farmer Account; and/or
    - b. charge a fee on the Loss at the Default Rate (or such lower fee rate or rates as HFL in its sole and unfettered discretion may determine) which shall be calculated daily until payment of the Loss in full and which shall be debited to the Farmer Account.
- 6.3 Not later than the Sale Date of the last Animal in all lines of Animals agisted to the Farmer, HFL shall prepare a statement showing the then balance payable by HFL or the Farmer (as the case may be) on the Farmer Account and HFL shall pay to the Farmer or the Farmer shall pay to HFL (as the case may be) the balance within 14 days of HFL supplying such statement.
- 6.4 The Farmer shall be liable to pay a fee at the applicable Default Rate on any amounts which remain unpaid under clauses 6.2 or 6.3 (including where recovery of payment has been deferred by HFL) and all payments shall be applied first in payment of fees.
- 6.5 HFL may at any time, in respect of an Animal, prospectively alter the AGL Supply Rate, the Standard Rate, the Default Rate, or any fee or charge payable by the Farmer under this agreement and such alteration shall take effect on the day notice of the alteration is emailed to the Farmer Email Address.
- 6.6 Upon request by the Farmer, HFL may in its sole and unfettered discretion sell an Animal to the Farmer for a purchase price calculated as:
  - (a) the Initial Value of the Animal; and
  - (b) fees in respect of the Animal under clause 6 which have accrued down to the time the Farmer makes payment of the purchase price; and
  - (c) any other amounts the Farmer is liable to pay under this agreement, and upon payment of the said purchase price, title to the Animal will pass to the Farmer and any future rights and obligations of the parties in respect of the Animal under this agreement shall be at an end.
- 6.7 HFL's calculation of all fees under this agreement, the Initial Value, the Sale Proceeds and all Farmer Account balances shall be final and binding.
- 6.8 HFL shall be entitled to set-off any amounts howsoever owed by the Farmer to HFL or any entity related to HFL against any amounts owing by HFL to the Farmer under this agreement, and the Farmer shall have no right of set-off and no counterclaim shall defer the Farmer's obligation to make payment under this agreement.

#### 7. Default

- 7.1 The Farmer shall be in default where:
  - (a) The Farmer breaches any term of this agreement including any obligation to make payment or in the sole and unfettered opinion of HFL the Farmer will in the future breach any term of this agreement.
  - (b) Any representation made by the Farmer or supplied by the Farmer to HFL is untrue.
  - (c) The Animals or other Secured Property in the sole and unfettered discretion of HFL are at risk.
  - (d) The Farmer is adjudicated bankrupt or placed in liquidation or a receiver or administrator is appointed in respect of HFL.

#### 8. Enforcement

- 8.1 In the event of a Default HFL shall without prejudice to its rights at common law, equity or otherwise be entitled to enter the Farm and take possession of any of the Secured Property.
- 8.2 The Farmer shall be liable to pay any cost, loss, liability or expense incurred by HFL in enforcing the terms of this agreement including without limitation full solicitor/client costs, disbursements and agency fees.

#### 9. Assignment

- 9.1 HFL may assign its rights title or interest under this agreement at any time without affecting the liability of the Farmer or the Guarantor.
- 9.2 The Farmer shall not be entitled to assign its right title or interest under this agreement without the prior written consent of HFL.

#### 10. No Partnership

- 10.1 The parties acknowledge that this agreement does not constitute or create a partnership or joint venture between the parties.

#### 11. Exclusive Supply to AGL

- 11.1 In the event that a Key Terms Letter in respect of an Animal provides for exclusive supply to AGL:
  - (a) HFL shall under clause 4.3 (unless HFL in its sole and unfettered discretion determines otherwise) exclusively supply the delivered Animal to AGL for slaughter provided that the Sale Proceeds for each delivered Animal shall be the applicable schedule rate prescribed by AGL unless otherwise agreed.
  - (b) The Farmer shall do all things necessary in order to procure the exclusive supply of the Animal to AGL.



11.2 The parties acknowledge that there shall be no AGL Supply Rate or AGL Supply Period in respect of an Animal where the Key Terms Letter in respect of the Animal does not provide for exclusive supply to AGL or the Animal is not supplied to AGL for slaughter under clause 11.1(a).

## **12. Continuing Guarantee**

12.1 The Guarantor (if more than one jointly and severally) shall be with the Farmer jointly and severally liable to HFL as principal debtor for the due performance and observance by the Farmer of its obligations under this agreement and shall indemnify HFL for any expenses which HFL may suffer in consequence of any breach by the Farmer of its obligations under this agreement.

12.2 The liability of the Guarantor shall not be affected by:

- (a) the granting of any time or any other indulgence to the Farmer or another Guarantor, or the compounding, compromise, release, abandonment, waiver, variation or renewal of any of the rights (including security) of HFL against the Farmer or another Guarantor;
- (b) the neglect or omission by HFL to make any prior demand on the Farmer or another Guarantor or to enforce any rights against the Farmer or another Guarantor; or
- (c) the Farmer or another Guarantor failing to sign this agreement or not being bound by this agreement.

## **13. Professional Trustee Limitation**

13.1 Where a person or company enters into this agreement as a trustee of a trust and neither the person nor any family member of the person, or (as the case may be), neither the company nor any director or shareholder of the company, has any right to or interest in the assets of the trust (including any direct or indirect interest, or a contingent or unvested interest) other than in his/her/its capacity as trustee, then that trustee's liability under this agreement will be limited to the assets of the trust from time to time save that this clause shall not apply if the trustee acts in breach of trust or otherwise loses the right to be indemnified from the trust assets.

## **14. Privacy and Information**

14.1 The Parties will comply with the Privacy Act 2020 and any other applicable privacy laws having regard to the rights and obligations under this clause 14.0.

14.2 Each Party authorises, in accordance with the Privacy Act 2020 and HFL's privacy statement (which is available on the Hazlett website and which HFL can change from time to time in accordance with its terms), HFL and its related companies, agents and assigns to collect, retain, use, store and disclose to third parties, and obtain from third parties, any information about the Party (or any other person or entity) for any purpose including, without limitation, verifying the identity of a Party, complying with obligations under the AML/CFT Act or any other enactment or law, assessing credit worthiness, processing applications, administering this agreement, enforcing or selling/assigning any rights under this agreement, implementing other relationships and transactions between any Party and HFL and its related companies or assigns.

14.3 Each Party warrants that all information supplied by each Party to HFL is complete and correct and each Party will immediately advise HFL of any changes to such information. Each Party will immediately provide any information or authority requested by HFL which HFL in its sole and unfettered discretion deems necessary for any purpose.

14.4 Each Party, who is a natural person, may request access to the information HFL holds about that Party and request that it be corrected.

14.5 HFL will hold all information received about each Party securely but shall be permitted to disclose it in accordance with this clause 14.0.

14.6 Each Party who provides information to HFL about another person or entity has the authority of such person or entity to disclose the information to HFL and to consent to the disclosure of the information to third parties.

## **15. Contracts Privity**

15.1 The Farmer acknowledges and agrees with HFL that all of HFL's rights and powers under this Agreement may be exercised and enforced by any of its related companies (as defined in the Companies Act 1993) or any of its duly authorised representatives or agents or assigns for any purpose connected with this Agreement, and that in terms of the Contract and Commercial Law Act 2017, Part 2, Subpart 1 the obligation of the Farmer under this Agreement are intended to confer a benefit on any such related companies, representatives or agents or assigns as well as HFL and accordingly are enforceable at the suit of such related companies, representatives or agents.

## **16. Miscellaneous**

16.1 Without limiting clause 6.5, HFL may amend the terms of this agreement from time to time by emailing notice of the amendment to the Farmer Email Address and such amendment shall apply to any Animals subsequently provided to the Farmer under clause 2.1.

16.2 The Farmer acknowledges that it enters into this agreement solely in reliance on its own judgment and that this agreement supersedes any earlier agreement, understanding or representation.

16.3 The Farmer acknowledges that it is in trade and the parties contract out of the provisions of the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 (including ss 9, 12A, 13 or 14(1)), and any other enactment, regulations or by-laws (including any warranties or conditions imposed therein) are excluded, to the maximum extent permitted by law, and that this clause is fair and reasonable.

16.4 HFL may act upon the instruction or communication of any one person comprising the Farmer or holding himself/herself as having authority to act for the Farmer.

16.5 Should any part or provision of this agreement be held unenforceable or in conflict with applicable laws or regulations, the invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of the part or provision in a valid and enforceable manner, and the remainder of this agreement shall remain binding.

16.6 This agreement may be executed in any number of counterparts (including e-mail and facsimile copies) all of which, when taken together, will constitute one and the same instrument. A party may enter into this agreement by executing any counterpart.

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