

AWB Pool Payment and Finance Options 13 July 2011

Terms & Conditions

AWB Grower Service Centre: 1800 447 246

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INTRODUCTION

Certain words and phrases used in these terms and conditions have the meanings given to them in section 8 unless the context requires otherwise.

Where the commencement of a clause is marked with an "*" it means that the clause is to be amended in accordance with section 7 if this is an Early Commitment Contract.

SECTION 1: AWB POOL PAYMENT GENERAL TERMS AND CONDITIONS

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 The AWB Pool Payment general terms and conditions apply to you when you deliver to an AWB entity grain for which a pool is open and select one of the payment options.
2. WHEN DOES TITLE IN GRAIN TRANSFER TO US?
 - 2.1 *Subject to clause 5, on delivery, we accept your offer to sell grain, and title in the grain and physical risk passes to us.
 - 2.2 *A delivery of grain occurs:
 - (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.
 - 2.3 *Physical deliveries must be made on a load by load basis with individual quality data, grade and weight of each load of grain delivered set out on a ticket issued for each load.
 - 2.4 Delivery of grain to us by an in-store transfer, for the purposes of a 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 3(b).

- 2.5 If a contractor makes any of your deliveries, you agree that the contractor acts on your behalf and with your authority.
- 2.6 When you have delivered grain to us, we will allocate the grain to a pool. The allocation we make to a pool is in our absolute discretion and we are not responsible to you for any loss suffered because of that allocation. In making that allocation we will take into account the results of quality and grade testing.
- 2.7 We may, in our absolute discretion and without providing any reason, withdraw some or all payment options.
3. *WEIGHT
- The weight of each load of grain delivered to us by way of:
- (a) a physical delivery will be determined at an approved weighing facility at the relevant BHC; and
 - (b) an in-store transfer will be determined according to the original weigh bridge ticket supplied by the relevant BHC for that grain.
4. GRAIN RECEIVAL STANDARDS
- 4.1 You must ensure that all grain delivered by you to us complies with the applicable grain receival standards that we require at the time of delivery and all relevant State and Federal pesticide treatment legislation or standards in relation to pesticide in grains intended for stock feed and/or for human consumption or industrial purposes. The applicable grain receival standards can be obtained by contacting the AWB Grower Service Centre.
- 4.2 You agree to indemnify us for any loss whether directly or indirectly caused as a result of:
- (a) a failure of grain delivered by you to comply with the current AWB grain receival standards; or
 - (b) pesticide levels in grain delivered by you to us.
5. *WE MAY WITHDRAW OUR ACCEPTANCE
- 5.1 Despite any other provision of the AWB Pool Payment general terms and conditions, we may within 30 days of delivery, withdraw our acceptance of your offer to sell grain under a payment option:
- (a) if you do not have good right and title to the grain delivered by you to us; or
 - (b) if any encumbrance exists over that grain, or the proceeds of sale of that grain, and either:
 - (i) that encumbrance is not discharged to the satisfaction of us; or
 - (ii) we decide, in our absolute discretion, that suitable priority arrangements have not been made between us and the holder of that encumbrance;
 - (c) if any representations or warranties that you make are not correct; or
 - (d) for any other reason in our absolute discretion.
- 5.2 If we withdraw our acceptance in accordance with clause 5.1, we will notify you and will require you to collect your grain, or, if that grain has been co-mingled, will require you to collect grain of the same grade and quantity (in either case, **Returned Grain**). You agree

that, in such circumstances, you have no claim against us (or any other AWB entity) in respect of the Returned Grain.

6. YOU MAKE REPRESENTATIONS AND WARRANTIES ON DELIVERY

6.1 You represent and warrant to us each time you deliver grain to us that:

- (a) you have good right and title to the grain delivered by you to us;
- (b) you have delivered a grade of grain for which we have published an estimated pool return;
- (c) you have disclosed to us any encumbrances to which that grain, or the proceeds of sale of that grain, is subject;
- (d) 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, such that we acquire the grain free of that encumbrance;
- (e) you are not insolvent;
- (f) you are authorised to provide the supplier information on behalf of the supplier;
- (g) title to the grain delivered by you will transfer to us in accordance with clause 2;
- (h) you have complied with clause 4.1;
- (i) if you enter into this contract in the capacity of a trustee of a trust or settlement, you have full authority and power to do so under the trust instrument and enter into this 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;
- (j) if you are not a wholesale client, any grain delivered by you to us has been produced by you in the ordinary course of your business; and
- (k) the supplier information included in the most recent supplier confirmation advice you have received from us or recorded by the provider of your third party registration number (as applicable) remains accurate as at the time of delivery and that you will ensure that the supplier information is updated promptly to reflect any changes that occur after delivery for so long as any obligations under the AWB Pool Payment general terms and conditions remain to be performed.

7. GST

7.1 Words defined in the GST Law have the same meaning in this clause 7.

- 7.2
- (a) Subject to clause 7.2(b) unless otherwise expressly stated, any amounts payable or any form of consideration to be provided for a supply made under a contract are exclusive of GST (***GST exclusive amount***).
 - (b) Where GST applies, for the purpose of determining your GST obligations, any amount paid or payable by us for a delivery of grain by you to us for one of the payment options you have selected is treated in the following manner:
 - (i) for an advanced payment agreement or a deferred payment agreement, any amount paid or payable by us for a delivery of grain by you to us under that contract adjusted for any payment costs is inclusive of GST;

- (ii) for an AWB loan agreement any amount paid or payable by us for a delivery of grain by you to us under that contract adjusted for any deductions is exclusive of GST; and
 - (iii) for an AWB Pool Distribution agreement and an AWB Deferred Pool Distribution agreement, any amount paid or payable by us for a delivery of grain by you to us under that contract adjusted for any deductions is inclusive of GST.
 - (c) Subject to clause 7.2(b), if you make a taxable supply under a contract, we must pay to you an amount equal to the GST payable on the taxable supply (**GST amount**) to the extent that, in addition to, and at the same time and in the same manner as the GST exclusive amount otherwise payable for the supply.
 - (d) Similarly, if we make a taxable supply to you under a contract, you must pay to us the GST amount to the extent that, in addition to, and at the same time and in the same manner as the GST exclusive amount otherwise payable for the supply.
 - (e) You are responsible for remitting GST to the Commissioner of Taxation on taxable supplies made by you.
- 7.3
- (a) 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 a 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 and that you are registered for GST.
 - (b) 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 for GST 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 it has paid to you in error.
- 7.4
- If an adjustment event arises in relation to any taxable supply made under a contract that 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.
- 7.5
- If a party (**the first party**) is required under a contract, to pay for or reimburse a cost, expense or outgoing of another party, the amount to be paid by the first party is the sum of:
- (a) the amount of the cost, expense or outgoing less any input tax credits in respect of the cost, expense or outgoing that the other party (or the representative member of a GST group of which it is a member) is entitled to; and
 - (b) if the payment by the first party is consideration for a taxable supply, an amount equal to the GST amount payable by the other party in respect of the taxable supply.

- 7.6 Any payment of an amount in respect of GST by one party to another pursuant to clause 7.2, 7.4 or 7.5 is deferred until the issue of the relevant tax invoice or adjustment note to the recipient.
8. NOTICES AND COMMUNICATIONS
- 8.1 Written communications to you must be sent to your address as set out in your supplier information, and may be sent by email to any email address specified by you from time to time. Written communications to an AWB entity must be sent to AWB Harvest Finance Pools Pty Limited c/- GPO Box 58, Melbourne, Victoria, 3001 or as otherwise notified to you from time to time.
- 8.2 You agree and acknowledge that:
- (a) sending or giving instructions or information by facsimile, the Internet or telephone (**communications methods**) is not a secure means of sending or giving information;
 - (b) you are aware of the risks involved in using such communications methods, including the risk that instructions may:
 - (i) be fraudulently or mistakenly written, recorded, altered or sent; or
 - (ii) not be received in whole or in part by the intended recipient or listener;
 - (c) no AWB entity is under a duty to enquire as to whether any instructions which appear to have been properly given by you have in fact been given by you;
 - (d) no AWB entity will be liable for any claims or losses incurred in connection with you using such communication methods, including in connection with an AWB entity:
 - (i) not acting on any instructions which in its opinion appear to have been communicated fraudulently, mistakenly, erroneously or without authority; or
 - (ii) acting on instructions which appear to have been properly created by you and received by that AWB entity, except in the case where that claim or loss is the direct result of fraud or wilful misconduct on the part of that relevant AWB entity; and
 - (e) an AWB entity may record and/or monitor telephone conversations with you with or without an automatic tone warning device and any AWB entity may use those recordings or transcripts from such recordings for any purpose that AWB entity considers desirable or appropriate in its absolute discretion.
9. RIGHT OF SETOFF AND CLAWBACK
- 9.1 If any AWB entity has a claim against you, whether or not arising under a contract, then:
- (a) the claim, if a liquidated amount, will be a debt due and owing by you to the relevant AWB entity;
 - (b) if the claim is unliquidated, then the relevant AWB entity will be entitled to make a reasonable estimate of the amount claimed or owed which will be notified to you in writing. You agree that the amount of that estimate will be a debt due and owing by you to the relevant AWB entity; and

- (c) if the claim is contingent, the AWB entity will be entitled to treat that contingent liability as a claim under (b) above and the claim so quantified will be a debt due and owing by you to the relevant AWB entity. When an unliquidated claim becomes liquidated, the relevant AWB entities will make any necessary adjustments to the amount of the debt due and owing by you.
- 9.2 If there is any debt due and owing by you to an AWB entity (**amount payable**) then that AWB entity or any other AWB entity which is liable to pay any amount to you on any account whatsoever (**amount receivable**) may deduct your amount payable from your amount receivable. This relevant AWB entity has this right of deduction or set off even if the amount payable is owed by you to another AWB entity. The AWB entity to which your amount payable is due and owing and any AWB entity which has made a deduction in respect of your amount payable will account to each other for the amount deducted, and your amount payable shall be reduced by the amount deducted.
- 9.3 If any such payment made to an AWB entity in accordance with the terms of a contract is void or voidable for any reason, that payment will be deemed not to have discharged your liability to that AWB entity in respect of that payment (notwithstanding any release or discharge given by that AWB entity).
- 9.4 If, after payment to you of any amount by an AWB entity in relation to a contract, that AWB entity decides that for any reason you had no right to some or all of that amount (including, where you are overpaid) then, despite any other provision of that contract, that AWB entity may recover from you that amount plus interest on that amount at the rate that that AWB entity reasonably determines to be the 90 day bank bill rate applicable at that time plus two per cent per annum calculated daily from the date that the amount is paid or advanced until (but not including) the date upon which the amount is repaid.
10. TICKET REVERSALS
- 10.1 If you request a ticket reversal from us, the decision whether to approve the ticket reversal will be in our absolute discretion. If approved, ticket reversal fees will apply.
- 10.2 Subject to clause 10.3, if a ticket reversal is approved in accordance with clause 10.1, you must:
- (a) repay the amount owing to us if the reversal out payment option is the AWB loan option; and/or
 - (b) repay all payments to us if the reversal out payment option is the advanced payment option, the deferred payment option, the AWB Pool Distribution option or the AWB Deferred Pool Distribution option; and
 - (c) pay all ticket reversal fees.
- 10.3 We may decide to deduct the amounts that you must pay to us under clause 10.2 from the amounts that we must pay to you under the reversal in payment option, thus, reducing the amounts that you must pay to us under clause 10.2 and reducing the amounts that we must pay to you under the reversal in payment option.
- 10.4 Upon you satisfying your obligations under clause 10.2, then your delivery of grain to us will be treated as having been delivered under the reversal in payment option on the date that delivery was made under the reversal out payment option from the date the ticket reversal is processed by us.

11. APPLICABLE LAW AND JURISDICTION

The law of the State of Victoria applies to each contract. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.

12. SALE OF GRAIN

You acknowledge that we may sell, within Australia or overseas any of the grain that it purchases from you to a related body corporate (as defined in the Corporations Act 2001 (Cth)) or other associated party on an arm's length basis, and you consent to any grain so acquired being dealt with by the acquirer as it sees fit (including under separate arrangements that party has in place) and/or solely for its own account and not for your account.

13. ASSIGNMENT AND VARIATION

13.1 Your rights in connection with a contract or any of the obligations that you have under it cannot be assigned or varied by you without our prior written consent.

13.2 You agree that we may assign or novate any of our rights, entitlements or obligations under a contract in our absolute discretion without obtaining any further consent from you or giving any notice to you. Without limiting this, you agree that we may novate a contract to an associate on the basis that you, the associate and each other party to a novated contract have the same rights, entitlements and obligations as if the associate was a party to that contract initially. You appoint us as your attorney for the purposes of agreeing to and executing any documentation that gives effect to an assignment or novation of any of our rights, entitlements or obligations under a contract.

13.3 We may amend a contract at any time by notifying you in writing. Any amendments to a contract will apply to all deliveries of grain made by you under that contract from the date specified in the applicable notice.

14. ENCUMBRANCES AND ADMINISTRATION FEE

14.1 You must not without our written consent:

- (a) create an encumbrance over, dispose of, declare a trust over or otherwise deal with any interest that you have in a contract, including all your rights under it or any amount payable to you under it; or
- (b) create or allow to come into existence any encumbrance which affects a contract; or
- (c) purport to create or allow to come into existence any encumbrance over grain that you deliver to us, or create or allow to come into existence any encumbrance over the proceeds of grain you deliver to us.

14.2 Without limiting clause 14.1, you agree to notify us 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 us.

14.3 Without limiting clauses 5.1(b) or 14.1, if an encumbrance exists in respect of the grain that you delivered to us or the proceeds of sale of that grain, then, without limitation to any other right of ours, you agree to pay us an administration fee for processing, complying

with and paying any claims made by the holder of that encumbrance. You agree that the administration fee will be the amount set by us from time to time, details of which are available from the AWB Grower Service Centre.

- 14.4 Whenever we reasonably request you to do anything to more satisfactorily mortgage, assure or secure an encumbrance in favour of us in a manner not inconsistent with a contract, you must do it immediately. It may include registering a charge or PPSA Security Interest created by or arising under a contract where under the *Corporations Act 2001* (Cth), the *Personal Property Security Act 2009* (Cth) or any other applicable law, registration is required or may affect the validity, enforceability or priority of that PPSA Security Interest, executing or registering any other document or agreement, delivering documents or evidence of title and executing and delivering blank transfers.

15. INDEMNITY

- 15.1 You agree to indemnify us:

- (a) against any claim by any person claiming an interest in any grain delivered by you or the proceeds of sale of such grain;
- (b) for any losses incurred by us in connection with:
 - (i) your failure to deliver grain under a contract;
 - (ii) a contract including (but not limited to) any representation, warranty or statement made or repeated by you that is untrue or misleading (whether by omission or otherwise) or any breach; or
 - (iii) discharging any encumbrance that affects any of your contracts;
- (c) for all supplier liabilities; and
- (d) for all government charges and any taxes (other than income tax and GST), duties and charges payable in respect of a contract and the transactions under it.

- 15.2 You agree to indemnify us for all deductions other than those already deducted by us in determining any amount paid or payable by us for a delivery of grain by you to us.

16. WHAT HAPPENS IF YOU ARE A PARTICIPANT IN A SHARE-FARM ARRANGEMENT?

If you are a participant in a share-farm arrangement, you agree that where a person makes a delivery of grain to us using the AWB share-farm access number for that share-farm arrangement (or a third party registration number for that share farm arrangement) and selects a payment option for that delivery, that person is authorised to do so on behalf of each participant (including you) in that share-farm arrangement. This means that the payment option selected by that person will apply to all of the participants in that share-farm arrangement as identified by the relevant AWB share-farm access number (or the third party registration number for that share farm arrangement).

17. BUSINESS DAYS

If the day on or by which a person must do something under a contract is not a business day:

- (a) if the act involves making a payment, the person must do it on or by the next business day; and

- (b) in any other case, the person must do it on or by the previous business day.

18. GENERAL

18.1 This contract contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this contract and has no further effect. The parties agree to exclude:

- (a) the application of the Grain Trade Australia Trade Rules; and
- (b) to the extent permitted by law, the application of the relevant Sale of Goods Act.

18.2 Any provision of this contract which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this contract enforceable, unless this would materially change the intended effect of this contract.

18.3 This contract may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

19. LIMITATION OF LIABILITY

19.1 Our Liability

- (a) Our liability under this agreement is limited to our capacity as trustee of the AWB Pools Trust and we are not liable in any other capacity.
- (b) Subject to paragraph (d), our liability in respect of any cause of action, claim or loss arising:
 - (i) under or in connection with this contract;
 - (ii) in connection with any transaction, conduct or any other agreement related to this 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 this contract,

(each, a **Trust Claim**), is limited to the assets of the AWB Pools Trust.

Your right to recover any amount in respect of any (and all) Trust Claims is limited to a right to recover an amount not exceeding the amount which we are entitled and able to recover from the assets of the AWB Pools Trust (after taking account of the costs of exercising our right of indemnity or exoneration) and if, after exercise of those rights, any such amount remains outstanding, no further Trust Claim may be made against us personally.

- (c) Subject to paragraph (d), you must not, in respect of any Trust Claim:
 - (i) bring proceedings against us in our personal capacity;
 - (ii) seek to appoint an administrator or liquidator to us;
 - (iii) commence the winding-up, dissolution, official management or administration of us; or
 - (iv) appoint a receiver, receiver and manager, administrative receiver or similar official to all or any of the assets of us.

- (d) If we act without good faith with fraud or dishonesty with a result that the actual amount recoverable by us in exercise of our right of indemnity, exoneration or recoupment of the assets of the AWB Pools Trust is reduced in whole or in part or does not exist, then to the extent that such right or the amount so recoverable is reduced or does not exist, we may be personally liable in respect of a Trust Claim.

SECTION 2: AP TERMS AND CONDITIONS – ADVANCED PAYMENT OPTION

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 *If you have an AWB Access Number or a third party registration number acceptable to us in our absolute discretion, an advanced payment agreement is formed between you and us each time you deliver grain to us and you inform the officer at the BHC that you wish to select the advanced payment option for that delivery.
 - 1.2 *An advanced payment agreement is made up of the AWB Pool Payment general terms and conditions and the AP terms and conditions. Together they contain the terms on which we buy grain from you.
2. PRICE FOR GRAIN SOLD
 - 2.1 In respect of a delivery of a pay grade of grain by you to us under an advanced payment agreement, we:
 - (a) will pay a first advanced payment to you within 7 days from the date you delivered that grain;
 - (b) may pay one or more interim payments following the first advanced payment; and
 - (c) may pay a final advanced payment when the pool for the relevant pay grade of grain is wound up,
 - 2.2 Any payments referred to in clause 2.1 will be made in the manner set out in clause 3.
3. HOW ARE PAYMENTS PAID?
 - 3.1 In respect of all your deliveries of grain to us in a season under your advanced payment agreements, you unconditionally and irrevocably agree that we may apply any payments for that grain as follows:
 - (a) first, to satisfy any encumbrance over that grain which has priority at law;
 - (b) second, to pay supplier liabilities relating to that grain;
 - (c) third, to pay any other AWB debt; and
 - (d) fourth, to satisfy any other encumbrance over that grain; and
 - (e) when the amounts in paragraphs (a) to (d) have been satisfied in full, to pay to you the amount remaining from those payments (if any), by crediting that amount to the bank account recorded in your supplier information.
 - 3.2 We are not responsible to you for any loss suffered because of a delay in making a payment or paying any relevant GST.

SECTION 3: DP TERMS AND CONDITIONS – DEFERRED PAYMENT OPTION

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 *If you have an AWB Access Number or a third party registration number acceptable to us in our absolute discretion, a deferred payment agreement is formed between you and us each time you deliver grain to us and you inform the officer of the BHC that you wish to select the deferred payment option.
 - 1.2 *A deferred payment agreement is made up of the AWB Pool Payment general terms and conditions and the DP terms and conditions. Together they contain the terms on which we buy grain from you.
2. PRICE FOR GRAIN SOLD
 - 2.1 In respect of a delivery of a pay grade of grain by you to us under a deferred payment agreement, we:
 - (a) will pay a first deferred payment in July following the date when you delivered that grain; and
 - (b) may pay one or more interim payments following the first deferred payment; and
 - (c) may pay a final deferred payment when the pool for the relevant pay grade of grain is wound up.
 - 2.2 Any payments referred to in clause 2.1 will be made in the manner set out in clause 3.
3. HOW ARE PAYMENTS PAID?
 - 3.1 In respect of all your deliveries of grain to us in a season under your deferred payment agreements, you unconditionally and irrevocably agree that we may apply any payments for that grain as follows:
 - (a) first, to satisfy any encumbrance over that grain which has priority at law;
 - (b) second, to pay supplier liabilities relating to that grain;
 - (c) third, to pay any other AWB debt; and
 - (d) fourth, to satisfy any other encumbrance over that grain; and
 - (e) when the amounts in paragraphs (a) to (d) have been satisfied in full, to pay to you the amount remaining from those payments (if any), by crediting that amount to the bank account recorded in your supplier information.
 - 3.2 We are not responsible to you for any loss suffered because of a delay in making a payment or paying any relevant GST.

SECTION 4: AWB LOAN TERMS AND CONDITIONS – AWB LOAN OPTION

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 *Subject to clause 1.4, if you have an AWB Access Number or a third party registration number acceptable to us in our absolute discretion, an AWB loan agreement is formed between you and us in a season if you notify us that you select the AWB loan option.
 - 1.2 *An AWB loan agreement is made up of the AWB Pool Payment general terms and conditions and the AWB loan terms and conditions. Together they constitute the terms on which we buy grain from you and the terms on which we provides a loan facility to you.
 - 1.3 *Subject to clause 1.4, if you deliver grain to us and notify us that you select the AWB loan option:
 - (a) you offer to sell that grain to us and we agree to buy that grain from you; and
 - (b) you apply to us for, and we agree to make available to you, a loan facility up to the initial credit limit in respect of that delivery of grain,on the terms of the AWB loan agreement.
 - 1.4 We are not obliged to offer the AWB loan option to you for grain delivered by you if an encumbrance exists in respect of that grain or, if you are an individual, you have not completed and returned to us a business purpose declaration.
2. YOUR LOAN FACILITY
 - 2.1 You may ask us to provide you with drawdown amounts up to your total credit limit. Your total credit limit reduces on each date that a pool payment is paid by us by the amount of the available pool payment for that date.
 - 2.2 We will determine and notify you of your initial credit limit in respect of each delivery of grain by you to us. The initial credit limit we will make available to you in respect of a delivery of a pay grade of grain is a dollar amount calculated as follows:
$$\text{\$initial credit limit} = (\text{tonnage} \times \text{AWB loan drawdown percentage} \times \text{adjusted nominated EPR} - \text{estimated costs})$$
Subject to clauses 2.3 and 3, the initial credit limit will be made available to you and the automatic drawdown amount (if any) will be provided within 7 days from the date when you delivered the grain to us.

We may at any time increase your initial credit limit in respect of a delivery of grain and:

 - (a) if you have not elected to receive an automatic drawdown amount, we will notify you of your new initial credit limit; or
 - (b) if you have elected to receive an automatic drawdown amount, we will notify you of your new initial credit limit and will credit the bank account recorded in your supplier information with an amount equal to your automatic drawdown percentage multiplied by the amount of the increase in your initial credit limit. You may request further drawdown amounts in respect of that increased initial credit limit in accordance with clause 3.

- 2.3 You unconditionally and irrevocably direct us to:
- (a) pay the total underwriting fee payable in respect of a delivery of grain:
 - (i) if you receive an automatic drawdown amount, by deducting it from the proceeds of your relevant drawdown amount in respect of that delivery; or
 - (ii) if you do not receive an automatic drawdown amount, by automatically drawing down the AWB underwriting fee drawdown amount against your initial credit limit in respect of that delivery, and
 - (b) satisfy any AWB debt and any encumbrance over any grain delivered by you to us from the proceeds of each drawdown amount and then to pay any remaining amount to you in accordance with the instructions recorded in your supplier information. We are not responsible to you for any loss suffered because of delay in payment of the proceeds of each drawdown amount.
3. WHAT MUST HAPPEN BEFORE YOU MAY RECEIVE A DRAWDOWN AMOUNT?
- 3.1
- (a) You may request that we provide an automatic drawdown amount in respect of each delivery of grain you make to us under the AWB loan agreement in a season by completing and returning an AWB loan drawdown application to us at any time.
 - (b) You will be taken to have requested that an automatic drawdown amount be provided in respect of each delivery of grain you make to us under the AWB loan agreement in the current season and each subsequent season if you selected an automatic drawdown amount in your AWB loan drawdown application in the current season or were provided with an automatic drawdown amount in any previous season.
 - (c) If you deliver grain to us and notify us that you select the AWB loan option and you have not completed and returned an AWB loan drawdown application to us in the current season or any previous season, you will be taken to have requested an automatic drawdown amount of 100%.
 - (d) You may request an automatic drawdown amount or vary your existing automatic drawdown amount by amending the details in your AWB loan drawdown application by following the procedure set out in the AWB loan application or by completing and returning a new AWB loan drawdown application to us.
- 3.2 If you request an automatic drawdown amount, we are only obliged to provide the automatic drawdown amount in respect of each of your grain deliveries in a season under the AWB loan agreement if:
- (a) any fees payable by you in connection with the AWB loan agreement have been paid;
 - (b) the automatic drawdown amount requested by you in respect of those deliveries is not less than 10% of your initial credit limit applicable to each of those deliveries; and
 - (c) we are satisfied that you are not in default under your AWB loan agreement or any other agreement that you may have with an AWB entity or any other finance agreement that you have with any other person.

- 3.3 Subject to clause 3.4, during the term of the AWB loan agreement, you may request further drawdown amounts up to an amount equal to the total credit limit.
- 3.4 After providing either an automatic drawdown amount or an AWB underwriting fee drawdown amount, we are only obliged to provide a further drawdown amount in respect of your deliveries of grain in a season under the AWB loan agreement if:
- (a) you have complied with the requirements set out in clause 3.2(a) and (c) of these AWB loan terms and conditions;
 - (b) you make a request for a drawdown amount by 2.00 pm (Melbourne time) five business days before the business day that you require the drawdown amount to be paid. Your request may be made by contacting the AWB Grower Service Centre or by any other method specified by us from time to time;
 - (c) you have lodged a password with us in accordance with AWB security procedures as specified from time to time;
 - (d) at the time of your request for a further drawdown amount, the security details and password provided by you are the same as those recorded by us;
 - (e) the drawdown amount requested is equal to or greater than \$5,000 and is a multiple of \$1,000 or such other amount as agreed by us in our absolute discretion;
 - (f) the total amount of all your outstanding drawdown amounts will not exceed the total credit limit immediately after the drawdown amount is made available;
 - (g) the date of your request is before 1 February in the year following that season (or such later date as we may determine in our absolute discretion) which falls on or before the final pool payment date.
- 3.5 Notwithstanding clause 3.4, we may, in our absolute discretion, apply an application processing period longer than the five business day period referred to in clause 3.4(b) to your request for a drawdown amount, and we are not responsible for any loss suffered by you because of any delay in making that drawdown amount available.
- 3.6 Although you may have more than one initial credit limit under these AWB loan terms and conditions, your AWB loan agreement is a single credit contract covering all drawdown amounts.
4. INTEREST
- 4.1 Subject to clause 10.3, you agree to pay us interest at the AWB indicative interest rate on the amount of each loan over the term of that loan.
- 4.2 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 AWB 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 payments along with the other amounts owing in respect of a season in accordance with clause 7.
5. UNDERWRITING PROTECTION
- 5.1 In respect of all your deliveries of grain throughout a season under your AWB loan agreement, there is a risk that the total of all pool payments for those deliveries will not be

sufficient to entirely repay the amount owing (**shortfall risk**). At your request, we accept this shortfall risk and undertake that we will only seek to be repaid the amount owing under your AWB loan agreement from pool payments for your deliveries of that grain in accordance with clause 7. The limit on our recourse described in this clause 5.1 does not apply if:

- (a) you are in default under your AWB loan agreement; or
- (b) pool payments for your deliveries of grain throughout a season are insufficient to entirely repay the amount owing due to the application of those pool payments by us pursuant to clauses 7.1(a) and/or 7.1(b), to the extent of that insufficiency.

5.2 We accept the shortfall risk because you agree to pay us an underwriting fee for each delivery of grain in accordance with clause 2.3. The total underwriting fee payable by you in respect of a delivery is an amount equal to the underwriting fee rate multiplied by the tonnage of grain in that delivery.

6. PRICE FOR GRAIN SOLD

6.1 In respect of a delivery of a pay grade of grain by you under the AWB loan agreement, we:

- (a) may pay periodic interim pool payments of an amount to be determined by us in our absolute discretion; and
- (b) will pay a final pool payment (if any) when the pool for the relevant pay grade of grain is wound up.

6.2 Pool payments will be made in the manner set out in clause 7.

7. HOW ARE POOL PAYMENTS PAID?

7.1 In respect of all your deliveries of grain to us in a season under your AWB loan agreement, you unconditionally and irrevocably agree that we may apply pool payments for that grain as follows:

- (a) first, to satisfy any encumbrance over that grain which has priority at law;
- (b) second, to pay supplier liabilities relating to that grain;
- (c) third, to pay to us on your behalf any amount by which the amount owing would exceed the amount of your total credit limit immediately after pool payments are paid by us;
- (d) fourth, to pay any other AWB debt;
- (e) fifth, to satisfy any other encumbrance over that grain; and
- (f) when the amounts in paragraphs (a) to (e) 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.

7.2 We are not responsible for any loss suffered by you because of a delay in payment of a pool payment or any relevant GST.

8. REPAYMENT OF AMOUNT OWING

8.1 The amount owing:

- (a) will be automatically repaid from pool payments in accordance with clause 7.1(c), to the extent that the amount owing is greater than your total credit limit (**automatic repayment**); and
- (b) can be repaid in full or in part by you in accordance with clauses 8.2, 8.3 and 8.4.

8.2 In addition to automatic repayments made under your AWB loan agreement, you may repay the amount owing at any time, if the amount of the repayment is equal to or greater than \$5,000 and is a multiple of \$1,000 or, is the amount owing in respect of that season.

8.3 When repaying the amount owing in full or in part:

- (a) if paying by electronic funds transfer or direct deposit, you must send a completed AWB loan repayment notice by post to the address or by facsimile to facsimile number set out in the form; and
- (b) if paying by cheque, you must send to us a completed AWB loan repayment notice and an unendorsed cheque made payable to us to the address set out in the form.

8.4 If you wish to repay the amount owing in full you must:

- (a) contact the AWB Grower Service Centre to ascertain the amount owing and to notify us that you wish to repay the amount owing in full; and
- (b) pay the amount owing to us so that the amount owing is received by us no later than 5 business days after you contact the AWB Grower Service Centre.

8.5 The AWB loan repayment notice is effective and irrevocable when received by us.

8.6 You may redraw amounts which have been repaid if you have complied with the requirements set out in clause 3.

9. YOU MAKE REPRESENTATIONS AND WARRANTIES ON DRAWDOWN

You represent and warrant separately to us each time we provide you with a drawdown amount that:

- (a) the representations and warranties set out in clause 6.1 of the AWB Pool Payment general terms and conditions are true and correct;
- (b) the information provided by you to us in connection with your AWB loan drawdown application is true and accurate; and
- (c) 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.

10. DEFAULT

10.1 You are in default if:

- (a) any of the representations and warranties that you made under the AWB loan agreement are untrue or become untrue;
- (b) you become insolvent; or

- (c) you are otherwise in breach of your AWB loan agreement.
- 10.2 If you are in default, we may in our absolute discretion immediately suspend, cancel or terminate the loan facility made available to you under these AWB loan terms and conditions, terminate the AWB 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 season is immediately due for payment and may seek to recover the entire amount owing from you.
- 10.3 If you are in default:
- (a) interest will be calculated under clause 4 of your AWB loan terms and conditions at the default rate rather than the AWB indicative interest rate; and
 - (b) you must pay us any enforcement expenses.

SECTION 5: AWB POOL DISTRIBUTION TERMS AND CONDITIONS – AWB POOL DISTRIBUTION OPTION

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 *If you have an AWB Access Number or a third party registration number acceptable to us in our absolute discretion, an AWB Pool Distribution agreement is formed between you and us each time you deliver grain to us and you inform the officer at the BHC that you wish to select the AWB Pool Distribution option.
 - 1.2 *An AWB Pool Distribution agreement is made up of the AWB Pool Payment general terms and conditions and the AWB Pool Distribution terms and conditions. Together they contain the terms on which we buy grain from you.
2. PRICE FOR GRAIN SOLD

In respect of a delivery of a pay grade of grain by you to us under an AWB Pool Distribution agreement, we:

 - (a) may pay periodic interim pool payments of an amount to be determined by us in our absolute discretion; and
 - (b) will pay a final pool payment (if any) when the pool for the relevant pay grade of grain is wound up,
- 2.2 Pool payments will be made in the manner set out in clause 3.
3. HOW ARE POOL PAYMENTS PAID?
 - 3.1 In respect of all your deliveries of grain to us in a season under your AWB Pool Distribution agreement, you unconditionally and irrevocably agree that we may apply pool payments for that grain as follows:
 - (a) first, to satisfy any encumbrance over that grain which has priority at law;
 - (b) second, to pay supplier liabilities relating to that grain;
 - (c) third, to pay any other AWB debt; and
 - (d) fourth, to satisfy any other encumbrance over that grain; and
 - (e) when the amounts in clauses 3.1(a) to (d) 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.
 - 3.2 We are not responsible for any loss suffered by you because of a delay in payment of a pool payment or any relevant GST.

SECTION 6: AWB DEFERRED POOL DISTRIBUTION TERMS AND CONDITIONS – AWB DEFERRED POOL DISTRIBUTION OPTION

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 *Subject to clause 1.2, if you have an AWB Access Number or a third party registration number acceptable to us in our absolute discretion, an AWB Deferred Pool Distribution agreement is formed between you and us each time you deliver grain to us and you inform the officer at the BHC that you wish to select the AWB Deferred Pool Distribution option.
 - 1.2 *An AWB Deferred Pool Distribution agreement is made up of the AWB Pool Payment general terms and conditions and the AWB Deferred Pool Distribution terms and conditions. Together they contain the terms on which we buy grain from you.
2. PRICE FOR GRAIN SOLD

In respect of a delivery of a pay grade of grain by you to us under an AWB Deferred Pool Distribution agreement, we:

 - (a) may pay periodic interim pool payments from July following the date when you delivered of an amount to be determined by us in our absolute discretion and will include any applicable Deferred Pool Distribution interest payable ; and
 - (b) will pay a final pool payment (if any) when the pool for the relevant pay grade of grain is wound up.
- 2.2 Pool payments will be made in the manner set out in clause 3.
3. HOW ARE POOL PAYMENTS PAID?
 - 3.1 In respect of all your deliveries of grain to us in a season under your AWB Deferred Pool Distribution agreement, you unconditionally and irrevocably agree that we may apply pool payments for that grain as follows:
 - (a) first, to satisfy any encumbrance over that grain which has priority at law;
 - (b) second, to pay supplier liabilities relating to that grain;
 - (c) third, to pay any other AWB debt; and
 - (d) fourth, to satisfy any other encumbrance over that grain; and
 - (e) when the amounts in paragraphs (a) to (d) 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.
 - 3.2 We are not responsible for any loss suffered by you because of a delay in payment of a pool payment or any relevant GST.

SECTION 7: AWB POOL EARLY COMMITMENT CONTRACT TERMS AND CONDITIONS

1. WHEN DO THESE TERMS AND CONDITIONS APPLY TO YOU?
 - 1.1 If the cover page, bearing a contract number, contains the words “early commitment contract”, an early commitment tonnage contract is formed between you and us.
 - 1.2 An early commitment tonnage contract is made up of the cover page and the AWB Pool Payment general terms and conditions as varied by the AWB Pool Early Commitment Tonnage terms and conditions in this section 7. Together they contain the terms on which we buy grain from you.
 - 1.3 Until you have complied with your obligations under the early commitment tonnage contract then all grain that you deliver to an AWB entity is delivered under the terms of the early commitment tonnage contract (subject only to clause 8.4 below).

2. AMENDMENTS TO AWB POOL PAYMENT GENERAL TERMS AND CONDITIONS

Clauses 2.1, 2.2 and 2.3 and 3 and 5 of the AWB Pool Payment general terms and conditions do not apply to this contract. They are replaced by the following:

2. TRANSFER OF TITLE AND DELIVERY REQUIREMENTS

- 2.1 You agree to sell and deliver the contracted tonnage of grain to us. Our agreement to purchase the grain is subject to clause 2.2.
- 2.2 (a) You must comply with your delivery obligations in relation to delivery of the contracted tonnage for the "delivery type" specified at clause 5 of the cover page, as set out in the following table.

Delivery Code	Delivery Type	Your Delivery Obligations	Passing of Title and Risk
PZ	Port zone	contracted tonnage at any BHC in the port zone	Title and risk pass on your unloading the delivered tonnage at the BHC in the port zone as specified by us or, if the grain has been first delivered into a warehouse, on receipt by an AWB entity of notice from the BHC that it holds the relevant delivered tonnage for us.

- (b) Title and risk in the contracted tonnage pass to us in accordance with the provisions of the table set out in clause 2.2(a).
 - (c) You must deliver the contracted tonnage during the delivery period.
- 2.3 When you deliver the contracted tonnage to us via a BHC, you are responsible for obtaining from the BHC a ticket issued by the BHC and containing the following information for each delivery load:

• Contract number	• Variety	• Screenings content
• Ticket number	• Bin grade	• Moisture content
• Grower name	• Pay grade	• Site of Delivery
• Grower number	• Test weight	• Treatment to the grain or defects
• Date of delivery	• Protein content	• Load Tonnage

You must provide this ticket to us on our request. You agree that we can, in our discretion, rely on the accuracy of information contained in this grain delivery ticket unless we consider that the information on the grain delivery ticket is manifestly wrong.

3. WEIGHT

The weight of grain delivered to us is determined for "PZ" delivery, by a weighing station acceptable to us at the applicable delivery point or, if we consider that the weight specified on these tickets is manifestly wrong, such other weight as we consider appropriate.

5 WE MAY REJECT GRAIN

5.1 Despite any other provision of this contract, within 30 days of delivery we may reject grain you have delivered under the contract:

- (a) if you did not have good right and title to the grain; or
- (b) if any encumbrance exists over that grain, or the proceeds of sale of that grain, and either:
 - (i) that encumbrance has not been discharged to our satisfaction; or
 - (ii) we decide, in our absolute discretion, that suitable priority arrangements have not been made between us and the holder of that encumbrance;
- (c) if any representations or warranties that you make in relation to that grain are not correct; or
- (d) for any other reason in our absolute discretion.

5.2 If we reject grain in accordance with clause 5.1, we will notify you and will require you to collect your grain, or, if that grain has been co-mingled, will require you to collect grain of the same grade and quantity (in either case, **Returned Grain**). You agree that, in such circumstances, you have no claim against us (or any other AWB entity) in respect of the Returned Grain."

3. AMENDMENTS TO AP TERMS AND CONDITIONS

Clause 1 of the AP terms and conditions does not apply to this contract. It is replaced by the following:

- 1.1 This section 2 applies if the cover page heading includes the words "AWB ADVANCED PAYMENT".
- 1.2 If this section 2 applies, this contract is an advanced payment agreement. It may also be referred to in some places as an "advanced payment contract".

4. AMENDMENTS TO DP TERMS AND CONDITIONS

Clause 1 of the DP terms and conditions does not apply to this contract. It is replaced by the following:

- 1.1 This section 3 applies if the cover page heading includes the words "AWB DEFERRED PAYMENT".
- 1.2 If this section 3 applies, this contract is a deferred payment agreement. It may also be referred to in some places as a "deferred payment contract".

5. AMENDMENTS TO AWB LOAN TERMS AND CONDITIONS

Clauses 1.1 and 1.3 of the AWB loan terms and conditions do not apply to this contract. They are replaced by the following (and a new clause 1.5 applies):

- 1.1 Subject to clause 1.4, this section 4 applies if the cover page heading includes the words "AWB LOAN".
- 1.3 Subject to clause 1.4, by entering into an AWB loan agreement:
 - (a) you offer to sell that grain to us and we agree to buy that grain from you; and
 - (b) you apply to us for, and we agree to make available to you, a loan facility up to the initial credit limit in respect of that delivered tonnage, on the terms of the AWB loan agreement.
- 1.5 If this section 4 applies, this contract is an AWB loan agreement. It may also be referred to in some places as an "AWB loan contract".

6. AMENDMENTS TO AWB POOL DISTRIBUTION TERMS AND CONDITIONS

Clause 1 of the AWB Pool Distribution terms and conditions does not apply to this contract. It is replaced by the following:

- 1.1 This section 5 applies if the cover page heading includes the words "AWB POOL DISTRIBUTION".
- 1.2 If this section 5 applies, this contract is an AWB Pool Distribution agreement. It may also be referred to in some places as an "AWB Pool Distribution contract".

7. AMENDMENTS TO AWB DEFERRED POOL DISTRIBUTION TERMS AND CONDITIONS

Clause 1 of the AWB Deferred Pool Distribution terms and conditions does not apply to this contract. It is replaced by the following:

- 1.1 This section 6 applies if the cover page heading includes the words "AWB DEFERRED POOL DISTRIBUTION".
- 1.2 If this section 6 applies, this contract is an AWB Deferred Pool Distribution agreement. It may also be referred to in some places as an "AWB Deferred Pool Distribution contract".

8. ADDITIONAL CLAUSES

The following additional clauses apply to each early commitment tonnage contract.

8.1 Multi-Grade Contract

If this contract is a multi-grade contract you may only deliver grades of grain in accordance with the list of acceptable grades of grain for delivery against the contract as per an attachment to the contract, as varied from time to time, and published by us or on our behalf.

8.2 Early commitment premium

- (a) We will pay you an early commitment premium in respect of the delivered tonnage if the cover page specifies that an early commitment premium is payable.
- (b) You unconditionally and irrevocably agree that we may apply any early commitment premium in the same way as it can apply all payments or pool payments (as applicable).

8.3 Exclusion of liability

We are not liable for any cost, expense, loss or liability suffered by you unless the cost, expense, loss or liability is caused solely by our breach of this contract.

8.4 Early Commitment tonnage contract sequence

If you have more than one early commitment tonnage contract with us and you have not delivered any of the contracted tonnage for one or more of those early commitment tonnage contracts, you may nominate the sequence for applying your deliveries to any early commitment tonnage contracts whose delivery period has not expired. If you do not specify a sequence, we may apply your deliveries in our absolute discretion.

8.5 Failure to deliver contracted tonnage

- (a) If you breach this contract by delivering less than the contracted tonnage when required by this contract, we will either acquire, or calculate the value to acquire, from a third party selected by us, grain up to the amount of:
 - (i) the shortfall (if we accept delivery); or
 - (ii) the contracted tonnage (if we reject delivery), from other persons selected by us.
- (b) You must pay to us on demand the difference between the replacement value of the shortfall or contracted tonnage (as applicable) and the next published estimated pool return plus our reasonable administrative costs and expenses as determined in good faith. The replacement value will be calculated on the same day as that estimated pool return.
- (c) You must pay any amounts payable by you to us under paragraph (a) within one month of the earlier of either:
 - (i) the expiration of the delivery period; and
 - (ii) our determination of the amount payable in respect of the breach,unless the time for payment is extended by agreement between you and us. We may charge you the default rate on any unpaid amount at a rate determined by us, which is available on request from the AWB Grower Service Centre.
- (d) You acknowledge and agree that, for a period ending 3 months after the last day in the delivery period, no AWB entity is required to take any steps to mitigate any costs, expense, loss or liability incurred by it as a consequence of your failure to deliver the contracted tonnage.

8.6 Force Majeure

- (a) If you are affected, or likely to be affected, by a force majeure event you must immediately notify us of that fact including:
 - (i) full particulars of the force majeure event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken (or that you propose to take) to rectify it.

- (b) Subject to you discharging your obligations under paragraph (a), your obligations under this contract are suspended to the extent to which they are affected by the relevant force majeure event for as long as the force majeure event continues or for so long as it takes you to discharge the steps in (a)(iv) above (which ever is earliest).
- (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.

8.7 Further assurances

You must do anything (including execute any document) and must ensure that your employees and agents (if any) do anything (including execute any document) that we may reasonably require to give full effect to this contract.

8.8 Statements by us

A statement or calculation by us on any matter relating to this contract is conclusive evidence of the amount in question unless clearly wrong on its face.

SECTION 8: DICTIONARY AND INTERPRETATION

actual costs means, in relation to a delivery of grain by you to us under a contract, the amount representing the total of the financing costs and deductions relating to that delivery.

actual pool return means, in respect of a grade of grain included by us in a pool in a season, the amount per tonne published by us or an AWB entity, on our behalf, as the base rate actual pool return for that grade in that pool. The actual pool return is denominated in dollars and is quoted GST exclusive.

adjusted APR means, in respect of a pay grade of grain delivered by you to us under a contract, the actual pool return per tonne for that pay grade adjusted for any applicable premium/discount.

adjusted nominated EPR means, in respect of a pay grade of grain delivered by you to us under a contract, the nominated EPR per tonne for that pay grade adjusted for any applicable premium/discount.

advanced payment agreement means the agreement between you and us which is made up of the AWB Pool Payment general terms and conditions and the AP terms and conditions.

advanced payment option means, in relation to grain delivered by you to us, the payment option whereby you are to be paid by us in accordance with the advanced payment agreement.

amount owing means, at any time, in respect of a season, 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 season, 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.

AP percentage means the percentage of the nominated EPR which is published as the "AP nominated percentage", or which can be ascertained by contacting the AWB Grower Service Centre.

AP terms and conditions means the terms and conditions entitled "Section 2: AP Terms and Conditions – Advanced Payment Option", as amended from time to time.

associate means an AWB Entity, a joint venture company in which an AWB Entity holds at least 25% of the issued share capital or a subsidiary of such a joint venture company.

automatic drawdown amount means, in relation to a delivery of a pay grade of grain by you to us under an AWB loan agreement in a season, the drawdown amount to be made available in accordance with your AWB loan agreement, which must be either 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% or 100% of the initial credit limit for that delivery (as selected by you initially in your AWB loan drawdown application (as amended by you)).

automatic drawdown percentage means the percentage amount selected by you in your AWB loan drawdown application (as amended by you) for the purpose of determining your automatic drawdown amount.

available pool payment means, in relation to grain delivered by you to us under the AWB loan agreement, the amount of a pool payment (plus relevant GST) payable for that grain less all supplier liabilities to be deducted from that pool payment.

AWB Access Number means the AWB access number issued by an AWB entity to you when you register as a supplier.

AWB debt means any amount that is due and payable by you to any AWB entity other than the amount owing.

AWB Deferred Pool Distribution agreement means the agreement between you and us which is made up of the AWB Pool Payment general terms and conditions and the AWB Deferred Pool Distribution terms and conditions.

AWB Deferred Pool Distribution option means, in relation to grain delivered by you to us, the payment option for that delivery whereby you are to be paid by us in accordance with the AWB Deferred Pool Distribution agreement.

AWB Deferred Pool Distribution terms and conditions means the terms and conditions entitled "Section 6: AWB DP Distribution Terms and Conditions – AWB Deferred Pool Distribution Option", as amended from time to time.

AWB entity means Cargill Australia Limited (ACN 004 684 173) or one of its related bodies corporate, acting directly or through an agent or sub-agent, as the context requires.

AWB Grower Service Centre means the AWB telephone information service which (at the time of printing) can be reached on the telephone number listed at the front of these terms and conditions.

AWB indicative interest rate means, at any time, for loans provided by us to you during a season under an AWB loan agreement, the indicative interest rate that is applicable at that time.

AWB loan agreement means the AWB loan option agreement between you and us which is made up of the AWB Pool Payment general terms and conditions, the AWB loan terms and conditions and the AWB loan drawdown application.

AWB loan drawdown application means the application form most recently completed and returned by you to us in relation to your AWB loan agreement, as amended by you in accordance with the procedure set out in that application form.

AWB loan drawdown percentage means, in respect of a delivery of a pay grade of grain by you, a percentage of the adjusted nominated EPR for that pay grade which can be ascertained by contacting the AWB Grower Service Centre.

AWB loan option means, in relation to grain delivered by you to us, the payment option for that delivery whereby you are to be provided with a loan facility by us in accordance with the AWB loan agreement.

AWB loan repayment notice means a notice in the prescribed form from you to us setting out details of a notice of repayment of any of the amount owing in respect of a season under the AWB loan agreement. Copies of the prescribed form of the AWB loan repayment notice can be obtained by contacting the AWB Grower Service Centre.

AWB loan terms and conditions means the terms and conditions entitled "Section 4: AWB Loan Terms and Conditions – AWB Loan Option", as amended from time to time.

AWB Pool Early Commitment Tonnage Terms and Conditions means the terms and conditions entitled "Section 7: AWB Pool Early Commitment Tonnage Terms and Conditions", as amended from time to time.

AWB Pool Distribution agreement means the agreement between you and us which is made up of the AWB Pool Payment general terms and conditions and the AWB Pool Distribution terms and conditions.

AWB Pool Distribution option means, in relation to grain delivered by you to us, the payment option for that delivery whereby you are to be paid by us in accordance with the AWB Pool Distribution agreement.

AWB Pool Distribution terms and conditions means the terms and conditions entitled "Section 5: AWB Pool Distribution Terms and Conditions – AWB Pool Distribution Option", as amended from time to time.

AWB Pool Payment general terms and conditions means the terms and conditions entitled "Section 1: AWB Pool Payment General Terms and Conditions", as amended from time to time.

AWB Pools Trust means the 2011/12 AWB Pools Trust established under the AWB Pools Trusts Master Trust Deed entered into by AWB Harvest Finance Pools Pty Ltd ABN 39 140 232 346 in or around June 2011.

AWB Pools Trustee means AWB Harvest Finance Pools Pty Limited ABN 39 140 232 346 as trustee for a AWB Pools Trust.

AWB underwriting fee drawdown amount means in respect of a delivery of a pay grade of grain by you under an AWB loan agreement, the amount of the total underwriting fee payable by you for that delivery.

BHC means a bulk handling company or receival site and/or storage and handling facility that receives and/or stores and handles grain on behalf of an AWB entity and has been approved by an AWB entity for that purpose.

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

claim means any claim, notice, demand, action, recovery, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

communication methods has the meaning set out in clause 8.1 of the AWB Pool Payment general terms and conditions.

contract means the AWB loan agreement, the advanced payment agreement, the deferred payment agreement, the AWB Pool Distribution agreement or the AWB Deferred Pool Distribution agreement or the early commitment tonnage contract (as applicable).

contracted tonnage means, in relation to an early commitment tonnage contract, the quantity of grain (in metric tonnes) of all grades of grain to be sold by you to us under the contract, as specified in clause 5 of the cover page. The amount of the contracted tonnage may vary by any "Tolerance %" specified in clause 3 of the cover page. If you are a participant in a share-farm arrangement and that share-farm arrangement contracts to make a delivery using its AWB share farm access number (or a third party registration number for that share farm arrangement), then the number of tonnes to be sold by you is your percentage share of that delivery.

cover page means, in relation to an early commitment tonnage contract, the document containing clauses 1 to 5 setting out certain terms, including price and quantity, that is issued in relation to that early commitment tonnage contract.

deductions means, in relation to a delivery of grain, the costs determined by us to be the costs incurred by it in connection with that delivery including:

- (a) storage, handling, transport and port costs; and

- (b) any other costs or charges that we determine should be included, including on-farm pick up costs and drying costs.

default has the meaning given in clause 10.1 of the AWB loan terms and conditions.

default rate means, in relation to the amount owing, a rate equal to the AWB indicative interest rate which would be applicable to the amount owing by you plus two percent.

deferred payment agreement means the agreement between you and us which is made up of the AWB Pool Payment general terms and conditions and the DP terms and conditions.

deferred payment option means, in relation to grain delivered by you to us, the payment option whereby you are to be paid by us in accordance with the deferred payment agreement.

Deferred Pool Distribution interest means interest accrued on funds held by the relevant pool and payable to suppliers who deliver under the AWB Deferred Pool Distribution option, as calculated by reference to applicable bank bill rates as determined by us in our absolute discretion.

delivered tonnage means, in relation to an early commitment tonnage contract, the quantity (in metric tonnes) of all grades of grain delivered by you and accepted by us under the contract. If you are a participant in a share-farm arrangement and that share-farm arrangement makes a delivery using its AWB share farm access number (or a third party registration number for that share farm arrangement), then the number of tonnes delivered by you is your percentage share of that delivery.

delivery period means, in relation to an early commitment tonnage contract, the period described in clause 4 of the cover page.

delivery point means, for "port zone" deliveries, a BHC receival site or facility acceptable to an AWB entity.

dollar or **\$** means the lawful currency of Australia.

DP percentage means the percentage of the nominated EPR which is published as the "DP nominated percentage" or which can be ascertained by contacting the AWB Grower Service Centre.

DP terms and conditions means the terms and conditions entitled "Section 3: Deferred Payment Terms and Conditions – Deferred Payment Options", as amended from time to time.

drawdown amount means each principal amount provided or to be provided as a loan under your AWB loan agreement, and includes the automatic drawdown amount and the AWB underwriting fee drawdown amount.

early commitment premium means, in relation to an early commitment tonnage contract, an amount per tonne specified in the cover page.

early commitment tonnage contract means a contract under which you agree in advance to deliver and sell a specified tonnage of grain to us at a later date on the terms which is made up of the AWB Pool Payment general terms and conditions, the AWB Pool Early Commitment Tonnage Terms and Conditions and the cover page.

encumbrance means any security for the payment of money or the performance of obligations including a mortgage (including an assignment by way of mortgage), charge or any other hypothecation, lien (including a crop lien), pledge, trust or power of any kind whatsoever or a PPSA Security Interest.

endpoint royalties means royalties payable to or collectible by an AWB entity from you in respect of grain delivered to us on produce derived from plant varieties to which plant breeders' rights or patent rights attach.

enforcement expenses means all costs, fees and expenses incurred by or on behalf of us in the actual or attempted preservation or enforcement of an AWB loan agreement.

estimated costs means, in relation to a delivery of grain by you to us, 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 the AWB loan terms and conditions.

estimated deductions means, in relation to a delivery of grain by you to us, our estimate at any time of the deductions relating to that delivery.

estimated financing costs 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 AWB Grower Service Centre.

estimated pool return means, on any day, in respect of a pay grade of grain, our estimate in dollars per tonne of the actual pool return for that pay grade, as published by us in respect of that day. The estimated pool return is quoted GST exclusive.

final advanced payment means, in respect of a delivery of a pay grade of grain by you to us under the advanced payment agreement, a dollar amount calculated as follows:

(tonnage x adjusted APR) – actual costs – (first advanced payment + all interim payments)

final deferred payment means in respect of a delivery of a pay grade of grain by you to us under the deferred payment agreement, a dollar amount calculated as follows:

(tonnage x adjusted APR) – actual costs – (first deferred payment + all interim payments)

final pool payment means, in respect of a delivery of a pay grade of grain by you to us under a contract, a dollar amount calculated as follows:

(tonnage x adjusted APR) – the aggregate of all interim pool payments – deductions

final pool payment date means, in relation to grain delivered by you to us in a season, the date on which we announce either the amount of the final pool payment or that no final pool payment will be paid, for that grain in that season.

financing costs means, in relation to a delivery of grain to us under an advanced payment agreement or a deferred payment agreement, the amount that you must pay to us for purchasing grain from you 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 cost".

first advanced payment means, in respect of a delivery of a pay grade of grain by you under an advanced payment agreement, a dollar amount calculated as follows:

(tonnage x AP percentage x adjusted nominated EPR) – payment costs

first deferred payment means, for of a delivery of a pay grade of grain by you to us under a deferred payment agreement, a dollar amount calculated as follows:

$$(\text{tonnage} \times \text{DP percentage} \times \text{July EPR}) - \text{payment costs}$$

force majeure event means 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 a failure of a public utility or common carrier which renders it impossible for you to transport the contracted tonnage to a delivery point. A "force majeure event" 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 weather conditions).

grade means each grade classification into which we allocate grain according to certain criteria, including variety and various other minimum quality parameters.

grain means any agricultural commodities purchased and/or traded by an AWB entity, including any of the following;

- (a) cereals;
- (b) coarse grains;
- (c) oil seeds; and
- (d) pulses,

which, in relation only to an early commitment tonnage contract, are specified in clause 2 of the cover page.

Grain Trade Australia Trade Rules means any trade rules issued by Grain Trade Australia Ltd from time to time.

grower number means the AWB Access Number or third party registration number used in relation to the relevant delivery.

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).

indicative interest rate means at any time, the indicative interest rate applicable to a loan of a specific amount, is the rate specified at that time as being applicable to loans of that amount, and which is published. These rates are variable rates set by us from time to time in our absolute discretion.

initial credit limit means, in respect of a delivery of a pay grade of grain by you to us for which you have selected the AWB loan option, the maximum principal amount that we are prepared to lend to you in respect of that delivery of grain (as adjusted pursuant to your AWB loan agreement), which can be ascertained by contacting the AWB Grower Service Centre.

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).

interim payment means, in respect of a delivery of grain under an advanced payment agreement or a deferred payment agreement, an amount calculated by us for that contract less payment costs.

July EPR means, in respect of a delivery of a pay grade of grain by you to us under a deferred payment agreement, the estimated pool return for that pay grade that is current at the time your first deferred payment is calculated by us in respect of that delivery, adjusted for any applicable premium/discount.

levies and tolls means, in relation to a delivery of grain by you to us, any industry levies, tolls, fees, charges, duties and any other amount collectible by us in connection with the sale of that grain to us.

loan means each loan provided by us in respect of each delivery of grain by you under your AWB 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 the AWB loan terms and conditions and each amount to be treated as a loan under clause 4.2 of the AWB loan terms and conditions.

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

multi-grade contract means an early commitment tonnage contract where the delivered tonnage may be any of the grades specified in the list of acceptable grades of grain for delivery against the contract as per an attachment to the contract, as varied from time to time, and published.

nominated EPR means, in respect of a delivery of a pay grade of grain, the estimated pool return for that pay grade that is:

- (a) notified to you in writing by us as the “nominated EPR”; or
- (b) published by us as the "nominated EPR".

pay grade means a grade of grain allocated or to be allocated into a pool by us in a season.

payment costs means an amount representing a proportion of the estimated financing costs and estimated deductions in respect of a delivery of grain as determined by us.

payment option means the AWB loan option, the advanced payment option, the deferred payment option, the AWB Pool Distribution option or the AWB Deferred Pool Distribution option (as applicable).

payment option terms and conditions means the terms and conditions which apply to the payment option that you have chosen in relation to grain delivered by you to us.

percentage share means, in relation to each supplier named under the heading "percentage share details" on an AWB share farm confirmation advice, or recorded by a third party in respect of a third party registration number applicable to a share farm arrangement, the percentage share for that supplier specified in respect of grain deliveries.

physical delivery has the meaning given in clause 2.2(a) of the AWB Pool Payment general terms and conditions.

pool means a grouping of grain according to grade, time and/or place of delivery and any other matters determined by an AWB entity. Nothing in this definition requires that quantities of grain forming part of the same pool be physically merged or stored, handled or transported together.

pool payment means, for an AWB loan agreement, an AWB Pool Distribution agreement or an AWB Deferred Pool Distribution agreement, any amount paid or payable by us for a delivery of grain by you to us under that contract adjusted for any deductions or Deferred Pool Distribution interest (if applicable).

port zone means, in relation to an early commitment tonnage contract, the region associated with the location identified in clause 5 of the cover page, as determined by us from time to time. Details are available by contacting the AWB Grower Service Centre.

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

premium/discount in respect of a pay grade of grain delivered by you to us under a contract, means the amount per tonne published as the premium or discount for that pay grade of grain, where a premium is a positive amount and a discount is a negative amount.

published means to make information publicly available on the AWB internet site at www.awb.com.au. If information is provided in writing to you under the AWB Pool Payment general terms and conditions that information shall apply to the exclusion of equivalent information otherwise published, unless the terms of that published information specifically provide otherwise.

reversal in payment option means, in respect of each delivery of grain by you the subject of a ticket reversal, the payment option that you want that delivery to be transferred into.

reversal out payment option means, in respect of each delivery of grain by you the subject of a ticket reversal, the payment option you selected at the time of delivering that delivery and out of which you wish to transfer and terminate.

season means the grain harvesting and delivery season to which a particular delivery or deliveries relate typically commencing in November of one year and continuing into May of the following year.

shortfall risk has the meaning set out in clause 5.1 of the AWB loan terms and conditions.

supplier means the one or more persons or corporate entities whose details are set out under the heading "Contact Details" on the most recent Supplier Confirmation Advice issued by us at the time of delivery. A supplier does not include a group of persons participating in a share-farm arrangement.

supplier information means:

- (a) if you make a delivery of grain under these terms and conditions using an AWB Access Number, the information about you included in the most recent Supplier Confirmation Advice issued to you before delivery; or
- (b) if you make a delivery of grain under these terms and conditions using a third party registration number, the information about you recorded by the provider of the third party registration number.

supplier liabilities means, in relation to a delivery of grain by you to us under a contract, the amount determined by us as the total of levies and tolls and endpoint royalties 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.

tax means any tax, goods and services tax, levy, duty, impost, fee, charge, deduction or withholding, however described, that is assessed, levied, imposed or collected by law or by any government agency (including a tax on net income), together with any related interest, penalty, fine, fee or other charge or amount imposed on, or in respect of any of the above, in any jurisdiction.

ticket reversal means, in respect of each delivery of grain by you, the transfer of that delivery from the reversal out payment option into the reversal in payment option.

ticket reversal fees means the fees charged in respect of each ticket reversal, which will be the amount calculated from time to time by us in our absolute discretion to compensate for our costs of the ticket reversal.

third party registration number means a unique grower registration number issued by a third party which maintains a register of growers and other sellers and which we have agreed, in our absolute discretion, to accept for use to identify grain delivered by you under these terms and conditions.

tonnage means, in relation to a delivery of grain to us, the number of tonnes in that delivery of grain. If you are a participant in a share-farm arrangement and that share-farm arrangement makes a delivery of grain to us under a contract using its AWB share-farm access number (or a third party registration number for that share farm arrangement), then your "tonnage" is your percentage share of that delivery of grain. Any changes to your percentage share of a delivery of grain will only be effective for any future deliveries made after that change.

total credit limit means, in respect of deliveries made by you in a season under your AWB loan agreement, the total of all your initial credit limits for those deliveries less the total of all your available pool payments for those deliveries up until that time.

underwriting fee means, as applicable, the fee:

- (a) payable to us under clause 5.2 of the AWB loan terms and conditions; or
- (b) that is included in the "finance costs" that are taken into account in determining your pool payments under an advanced payment option.

underwriting fee rate means the rate set by us, from time to time, expressed as an amount in dollars per tonne, which can be ascertained by contacting the AWB Grower Service Centre.

we, us or **our** means AWB Pools Trustee, acting directly or through an agent or sub-agent.

wholesale client has the meaning given to that term in section 761G of *Corporations Act 2001* (Cth).

you or **your** refers to the party who sells grain to us under a contract, who must be a supplier with an individual AWB access number or a third party registration number acceptable to us in our absolute discretion and includes any agent acting on behalf of that supplier. If the supplier information includes more than one person or corporate entity as the supplier, "you" or "your" refers to each of them separately and every two or more of them jointly and includes any agent acting on behalf of them. It also includes the supplier's lawful assigns and successors. "You" or "your" does not include a group of persons participating in a share-farm arrangement.

Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to an agreement or document (including a reference to a contract) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by these terms and conditions or that other agreement or document.
- (d) A reference to a party to a contract or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (e) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (f) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (g) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.