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ABN 80 456 117 281

Wednesday, 1 June 2022

Supplier name:  
Supplier number:  
Supplier address:

### ADFC Exclusive Milk Supply Contract

Dear Supplier Name,

Australian Dairy Farmers Corporation Limited (**ADFC**) wishes to make you the following exclusive offer to purchase all of your milk.

#### 1. Interpretation

Unless the context otherwise requires:

**“ADFC”** means Australian Dairy Farmers Corporation Limited ABN 80 456 117 281

**“ADFC’s Policies”** means the policies identified in Item 3 of the Schedule

**“Announced Base Price”** means, in respect of a month, the base monthly milk price for that month announced by ADFC, prior to the commencement of the new season for a Reference Litre of Milk.

**“Code”** means the *Competition and Consumer (Industry Codes-Dairy) Regulations 2019*.

**“Commencement Date”** has the meaning given in Item 2(a) of the Schedule.

**“Contract”** means the contract (the terms of which are set out or referred to in this document) arising from your acceptance of this offer.

**“Effective Date”** means the date You sign this Contract.

**“Farm”** means the farm or farms allocated to ADFC’s farm number or numbers shown in Item 1 of the Schedule. For the avoidance of doubt, ‘farm’ does not include any additional real estate acquired or used by you on or after the Effective Date to produce milk.

**“Financial Year”** means each period of 12 consecutive months commencing on 1<sup>st</sup> July.

**“Force Majeure”** means unforeseeable circumstances that prevent a party from fulfilling their obligations under this Contract. This includes natural disasters, acts of God, industrial action, government action (or inaction), an act of terrorism, outbreak of war, epidemic, pandemic, loss of production or cattle due to circumstances beyond your reasonable control, such as feed shortages, flood or drought.

**“Milk”** or **“your milk”** means all of the milk produced at the farm excluding milk used for the rearing of calves on the farm or milk used or consumed on the farm for domestic or household purposes.

**“Month”** means calendar month.

**“Party or parties”** means the Supplier or ADFC or both. A reference to a party includes that party’s successors and permitted assigns.

**“Reference Litre of Milk”** means a litre of milk which contains 4.00% fat and 3.20% protein.

“Term” means the period from the Commencement Date to the End Date as specified in Item 2 of the Schedule.

“You” or “Supplier” means the party whose details are set out in Item 1 of the Schedule.

A reference to a person includes a natural person, partnership, firm, body corporate or other entity.

A reference to the singular includes the plural and a reference to the plural includes the singular.

## 2. Agreement to Supply and Purchase Milk

- a. This Contract sets out the terms and conditions on which ADFC is prepared to buy milk from You.
- b. During the Term and thereafter until the Contract is terminated in accordance with section 10, You agree to supply and ADFC agrees to acquire all of your Milk, on the terms and conditions referred to in this Contract.
- c. For the avoidance of doubt, you will have breached the Contract if you supply Milk to a third party at any time prior to the Contract being terminated in accordance with section 10 without first being approved in writing by ADFC.
- d. This Contract is comprised of these terms, the Schedule, Annexure 1 and the ADFC Policies.
- e. This Contract (including its Schedule, Annexure 1 and the ADFC Policies) contains the entire agreement between the parties in relation to their subject matter and supersedes all previous agreements, understandings, communications, and representations on the subject matter.

## 3. Cooling-Off Period

You may terminate this agreement in writing within the cooling-off period, being within 14-days of the day on which you sign this agreement.

## 4. Milk Pricing

ADFC strives for fairness for our farmers and aims to pay our suppliers market competitive prices across all of our regions. Our total announced minimum milk prices are based on milk that meets our quality standards and excludes Dairy Australia Fees of 2.9263 cents / Kg Fat and 7.1299 cents / Kg Protein together with Dairy Food Safety Victoria levies of 0.0001638 cents / litre. Milk that does not meet our quality standards may be rejected or otherwise be subject to price deductions as described in ADFC's Policies. In the event your Milk is rejected, ADFC will provide you with a written notice of the rejection as soon as practicable after the rejection, which will include the consequences of the rejection and any fees payable by You as a result of the rejection.

ADFC's opening minimum milk price commitment for this season's milk supply is as tabled below.

ADFC MINIMUM FY23 Milk PRICE	July to Dec			Jan to June		
	\$/Kg Fat	\$/Kg Protein	\$/Kg MS	\$/Kg Fat	\$/Kg Protein	\$/Kg MS
<b>Base Price</b>	\$7.42	\$11.13	\$9.07	\$8.07	\$12.11	\$9.87
<b>Quality Incentive</b>	\$0.23	\$0.34	\$0.28	\$0.23	\$0.34	\$0.28
<b>Total announced minimum price commitment</b>	\$7.65	\$11.47	<b>\$9.35</b>	\$8.30	\$12.45	<b>\$10.15</b>

- a. Statement of Minimum Milk Price Justification  
ADFC offers the same minimum milk price to all suppliers in all regions it collects from and regardless of the volume of milk supplied. ADFC has specified a minimum milk price for July to December and then January to June to provide cashflow that underpins year-round milk supply. ADFC supports the Code and opposes retrospective milk price reductions, as they undermine trust, drive volatility and damage farmers' ability to plan for and invest in their businesses.

The factors that lead to the consideration of the prices tabled above includes agreements with ADFC customers that provide a monetary value for quantity and deliverability of milk volumes required. These monetary values include consideration of competitive tensions for milk supply within each of the Victorian dairy supply regions. ADFC extracts the cost of running ADFC from total revenue and the balance is passed on to ADFC's suppliers via its milk price.

## 5. Milk Payment Arrangements

- a. **Announced Base Price:** Subject to the other provisions of this paragraph, ADFC will acquire your Milk each Month for the Announced Base Price for that Month.
- b. **Adjustments:** Incentives, penalties, step-ups and other adjustments will apply to the Announced Base Price per litre in accordance with ADFC's Policies.
- c. **Levies:** Where any levy applies to the Milk, ADFC will pay the levy on behalf of the Supplier. The amount of any levy will be deducted from the payment to the Supplier.

## 6. Maximum amount of Milk

For the avoidance of doubt, there is no maximum amount of Milk that You may supply to ADFC under this Contract during the Term.

## 7. ADFC's Policies

- a. In addition to the terms of this document, ADFC's Policies will apply to your supply of Milk to ADFC and form part of this Contract.
- b. ADFC may change ADFC's Policies from time to time in accordance with the Code. ADFC will notify you in writing of any changes to ADFC's Policies.
- c. You must comply with ADFC's Policies. In the event of any express inconsistency between this document and ADFC's policies relating to pick-up arrangements (including road access), milk quality standards and control procedures for milk, the provisions of ADFC's Policies shall prevail over the terms of this document to the extent of the inconsistency. In all other respects, in the event of any express inconsistency between this document and ADFC's Policies, the terms of this document shall prevail.
- d. You acknowledge that You have received and read ADFC's Policies before entering into this Contract.

## 8. Quality and sampling procedures

- a. Unless otherwise agreed in writing, the quality of milk provided by You must comply with the quality specifications in ADFC's Policies. If the parties agree in writing on updated quality specifications during the Term, this Contract is amended accordingly with effect from the date of that agreement.
- b. ADFC will undertake the sampling procedures and volume accuracy assurances specified in ADFC's Policies in relation to Milk supplied by You and, following such procedures and assurances, will provide You with written notice of the results as soon as reasonably practicable.

## 9. Monthly Statements

- a. ADFC will issue a statement to You within 14 days of the end of each Month during the Term.
- b. The statement will specify **dealings** with the Milk in the prior Month.
- c. **Dealings** include the quality and quantity of Milk purchased by ADFC, the date(s) of the purchases, price for the Milk, where multiple methods are agreed for calculating the milk price, the method applied for calculating the milk price for a particular purchase, any fees or levies deducted from payment and the date the Milk was delivered.

## 10. Termination

- a. Subject to clauses 10(c), (d) and (e), this Contract shall continue for the Term and thereafter unless and until terminated by either party giving to the other party notice in writing in accordance with this clause 10(a). If a party wishes to terminate this Contract pursuant to this clause 10(a) (that party being the "**Terminating Party**"), must follow the following procedure:
  - i. the Terminating Party must provide written notice to the other party that it is exercising its right to terminate the Contract ("**Notice of Termination**") not less than 30 days prior to the end of the Term;

- ii. in order to be effective, the Notice of Termination must set out the date on which the termination will take effect ("**Termination Date**"); and
  - iii. the Termination Date:
    1. must be the final day of a Month;
    2. cannot be less than one Month from the date of the Notice of Termination; and
    3. cannot be any earlier than the final date of the Term (unless by express permission from ADFC as per clause 2 (c)).
  - iv. The Terminating Party must confirm in writing to ADFC of their intention to cease supplying ADFC ("**Notice of Confirmation of Termination**") by day 15 of the terminating period ("**Termination Window**").
  - v. If the procedure set out in this clause 10(a) is not followed, the Notice of Termination shall be ineffective. Without limitation, if the Notice of Confirmation of Termination is not given within the Termination Window, the Notice of Termination shall be ineffective and of no force or effect.
- b. If You continue supplying ADFC after the end of the Term:
- i. the contract and ADFC's Policies in force at the time shall continue to apply (including during any notice period); and
  - ii. the minimum milk price announced by ADFC for the period following the expiration of the Term shall apply.
- c. If you supply Milk to a third party in breach of the terms of this contract, ADFC may at any time immediately terminate the contract by notice in writing to you.
- d. You may terminate this Contract by giving 30 days written notice to ADFC **PROVIDED THAT** you provide documentary evidence that you are permanently leaving the dairy industry to the reasonable satisfaction of ADFC.
- e. Either party may immediately terminate this Contract if the other party:
- i. commits a fundamental or material breach of this Contract which is incapable of remedy; or
  - ii. commits a fundamental or material breach of this Contract and fails to remedy the breach within thirty (30) days after notice in writing has been given to remedy that breach.
- f. The termination of this Contract must be in writing with accompanying reasons for the termination as well as the date upon which the termination takes effect, to be provided as soon as practicable after the termination.

## 11. Complaints & Disputes

- a. All disputes are subject to the provisions of the Code relating to disputes.
- b. Where a dispute arises out of or in connection with performance of this Contract both parties, acting in good faith, will use all reasonable endeavours to bring the issue to the attention of the other party in a timely fashion and in any instance not more than 30 days after the event occurs which leads to the dispute.
- c. Notification will include:
  - i. The nature of the complaint;
  - ii. that the aggrieved party wishes to resolve the dispute in accordance with this Contract; and
  - iii. the desired resolution.

- d. The party receiving the complaint will in writing notify the other party that they have received the complaint within five Business Days and articulate steps intended to resolve the dispute.
- e. Any complaints arising under this Contract must, in the case of ADFC, in the first instance be referred to the ADFC's Internal Complaints Handling Officer for resolution under ADFC's complaint handling procedure set out in Annexure 1.
- f. Where a notification of a dispute is made to the other party to this Contract both parties will act, in good faith, to resolve the dispute.
- g. If after attempting to resolve the dispute, and in any instance not before the elapse of 60 days after notification, the parties are not reconciled, both parties agree to participate in a mediation process as specified in the Code.
- h. The costs of a mediation will be borne by each party equally, unless otherwise agreed. If a party seeks legal representation in the mediation process, such legal costs will be borne by that party.
- i. Nothing in this dispute resolution procedure will prevent a party seeking an injunction.

## 12. Force Majeure

- a. Neither party is liable for a failure to comply with this Contract or a failure to perform an obligation under this Contract because that party is unable to perform its obligations due to an event of Force Majeure
- b. The party relying on an event of Force Majeure must notify the other party as soon as practicable and in writing of the reliance on the event of Force Majeure.

## 13. Variation

- a. Except as provided under this clause 13, ADFC and the Supplier may only agree to vary this Contract in writing signed by both parties, or by a written notice of offer to vary the Contract and a written notice of acceptance. Any offer, acceptance or signed variation must state the Milk Supply Agreement to which it refers and the date the variation is to take effect.
- b. ADFC can only unilaterally vary this Contract

if there is a change in Commonwealth, State or Territory law and then only to the extent necessary to comply with the changed law but without reducing the minimum price under this Contract. In the event that ADFC unilaterally varies this Contract under this subsection, ADFC will provide You with 30 days' prior written notice. As soon as reasonably practicable following the variation, ADFC will also provide You with a copy of the written variation itself, an explanation of the reason for the variation and the date that the variation takes effect. For the avoidance of doubt, this section does not affect the power of ADFC and the Supplier to agree to vary the Contract under clause 13(a).

- c. Any variation under this clause 13, does not allow a variation that does not comply with the Code.
- d. Any variation agreed to by the parties is limited to compliance with the law or the Code. If the variation to the agreement is inconsistent with a law or the Code, the law or Code will prevail to the extent of the inconsistency.
- e. An agreed variation which is not written in the first instance will be written and transmitted by ADFC to the Supplier within 30 days. Where the supply period of the Contract is 90 days or longer, ADFC must make all reasonable efforts to obtain written acknowledgement that the record is a complete and accurate record of the variation from the Supplier.

## 14. Confidentiality

- a. The parties must keep confidential and must not disclose or make available directly or indirectly to any third party any Confidential Information unless:
  - i. the disclosure of the Confidential Information is necessary to comply with any laws or the lawful requirements of any public, statutory, governmental, semi-governmental, local governmental or judicial body entity or authority;

- ii. at the time of the disclosure, the information was in the public domain; or
  - iii. subsequent to the disclosure, the information becomes part of the public domain (other than because of a breach of this clause).
- b. The parties must not use, disclose, or access the Confidential Information for any reason except as is necessary to perform this Contract.
- c. For the avoidance of doubt, the parties' obligations in clause 14(a) apply to any information disclosed or obtained in dealing with or resolving a complaint or dispute under this Contract.
- d. For the purpose of this clause "**Confidential Information**" means the terms of this Contract and (whether or not in material form and whether disclosed before or after the date of this Contract) any information of whatever kind relating to a party that is disclosed or becomes known to the other party in the course of their discussions and negotiations regarding or in connection with this Contract and which:
  - i. is by its nature confidential;
  - ii. is designated by the party disclosing the information as confidential; or
  - iii. the party receiving the information knows or ought reasonably to know is confidential;but does not include any part of the information that:
  - iv. is generally known to the public at the time of disclosure or becomes generally known to the public through no wrongful act on the part of the party receiving the information;
  - v. is in the possession of the party receiving the information at the time of disclosure otherwise than as a result of that party's breach of a legal obligation;
  - vi. becomes known to the party receiving the information through disclosure by sources other than the other Party provided that, in so far as is known to that source, it is not prohibited by law or contract from disclosing the information to the party receiving the information;
  - vii. is independently developed by the party receiving the information outside the scope of the relationship with the other party; or
  - viii. is required to be disclosed by court order, subpoena or other law or legal process

## 15. Governing Law

This Contract is governed by the laws of Victoria and each party submits to the non-exclusive jurisdiction of the courts of Victoria.

## 16. Set-Off

ADFC may set-off any amount payable by you to ADFC against any amount payable by ADFC to you.

## 17. Acknowledgment

You acknowledge that, prior to signing this document, you have been given the opportunity to obtain independent legal and financial advice on the contract.

## 18. Milk Ownership

Ownership of milk is transferred from the Supplier to ADFC when the milk tanker is approved for unloading at the relevant processing facility once milk testing approval is provided by that facility's milk testing process.

## 19. Severability

The Contract shall not be adversely affected by any part that is unenforceable or invalid. The offending part shall be read down or shall be severed, and the remaining parts shall continue to have full force and effect.

## 20. Joint and Several

Any covenant or agreement on the part of and for the benefit of two or more persons shall bind them and be for the benefit of them jointly.

## 21. Privacy

ADFC collects, uses and discloses personal information in accordance with our 'Privacy Policy', the current version of which can be accessed at [www.adfc.com.au](http://www.adfc.com.au) (or such other web address as notified to you).

## 22. General

- a. Without prior and written permission of the other party, neither party will assign this Contract.
- b. To the extent of any inconsistency between the terms of this Contract and the Code, the Code prevails. To the extent of any ambiguity between a term of this agreement and the Code, the term should be construed in a way that complies with the Code.
- c. If a party chooses not to demand enforcement of a term of this Contract the choice cannot be interpreted as a waiver of the term. An aggrieved party may seek damages or specific performance for breach of this Contract.
- d. Expiry or termination of this Contract does not limit any rights or obligations a party had prior to the expiry or termination.
- e. Clauses which are intended to operate beyond the Term may be relied upon by a party beyond the Term.
- f. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights and remedies provided by law.

If you wish to accept this offer for milk supply, you must sign and return the enclosed copy of this document to ADFC. Each named supplier, or their representative, must sign the enclosed copy of this document. Please also initial each page of the enclosed copy of this document. Please keep a copy of this contract for your records.

Yours faithfully



Andrew Sutton  
**ADFC General Manager**

You agree to supply milk to ADFC in accordance with the terms of this contract and ADFC's policies:

**Where the supplier is an individual(s):**

SIGNED by the supplier in the presence )  
of: )  
)

.....  
**Supplier**

.....  
**Witness**

.....  
**Supplier**

.....  
**Print Name of Witness**

.....  
**Supplier**

.....  
**Date**

**Where the Supplier is a company:**

Executed by the supplier in accordance )  
with section 127 of the Corporations Act )  
2001 (Cth) )

.....  
**Director / Secretary**

.....  
**Director**

.....  
**Name (BLOCK LETTERS)**

.....  
**Name (BLOCK LETTERS)**

.....  
**Date**

**OR**

.....  
**Sole Director and Secretary**

.....  
**Name (BLOCK LETTERS)**

.....  
**Date**



**SCHEDULE**

**Item 1 - Supplier**

Supplier's Name:

ACN/ABN (if applicable):

Farm Number(s):

Address:

Email:

Phone:

**Item 2 – Term:**

(a) - Commencement Date: 1<sup>st</sup> of July 2022

(b) - End Date: 30<sup>th</sup> June 2023

**Item 3 – ADFC's Policies**

"ADFC Milk Supply Policy"

**ANNEXURE 1: ADFC's COMPLAINTS HANDLING PROCESS (clause 11(e))**

1. ADFC's Internal Complaints Handling Officer is currently Ron Page.
2. If You have a complaint in relation to this Contract or your milk supply arrangements with ADFC, you should in the first instance contact ADFC's Internal Complaints Handling Officer to discuss your complaint.
3. ADFC will attempt to resolve your complaint within 10 Business Days of being notified of your complaint.
4. If You are unable to resolve your complaint with ADFC's Internal Complaints Handling Officer within 20 Business Days of notifying ADFC of your complaint, you may request that your complaint be escalated to ADFC's General Manager for review.
5. If You are unable to resolve your complaint with ADFC's General Manager within a further 10 Business Days of requesting your complaint, be considered by ADFC's General Manager you may request that the parties agree to mediation of your complaint in accordance with clause 11 of the Contract.