

This Agreement is made on DATE between:

(INSERT NAME, ABN and ADDRESS) ("Processor")

(INSERT NAME, ABN and ADDRESS) ("Grower")

ABOUT THIS AGREEMENT

- A. This is an Agreement between Processor and a Grower of a kind required for the purposes of section 7(1) (a) of the Poultry Meat Industry Act 1986 (NSW).
- B. This Agreement is a Standard Agreement

The Processor and the Grower wish to enter into an Agreement by which the Grower will grow and care for broiler chickens owned by the Processor, and the Processor will pay the Grower a fee for Saleable birds.

The parties acknowledge that the Processor has a significant investment in, and is subject to significant risks, with respect to birds placed on the Grower's Farm, and that the Grower has a significant investment, and is subject to significant risks, with respect to their Farm.

The objective of this Agreement, including the Annexures, is to set out the parties respective rights, obligations and arrangements to protect the parties' respective investments and to minimize the parties' respective risks.

OPERATIVE PART OF THE AGREEMENT

It is hereby agreed in consideration of the mutual promises contained in this Agreement:

1. Definitions

The definitions in the Act shall apply to this Agreement, except insofar as is otherwise specified or where the context requires otherwise:

"Abnormal Losses" in relation to a Batch means

- (a) losses above 2% in the first 7 days after placement of day old chicks; or
- (b) losses above 0.1% per day for two or more consecutive days after the Batch is older than seven days.

"Act" means the Poultry Meat Industry Act 1986 (NSW).

"Agreement" means this Agreement and includes the annexures hereto.

"Base Rate" has the meaning given in Section 10 of the Act, and for the purposes of negotiation under this Agreement the Base Rate is expressed as the Rate per Square Metre per Batch payable by the Processor to the Grower

“Batch” means a quantity of Chicks delivered by Processor to the Grower in accordance with this Agreement.

“Batch Rate per bird is calculated using the formula – (Base Rate X floor space in square metres)/(Throughput in number of birds)

“Birds” means a Broiler Chicken or Chick.

“Broiler Chicken” means a fowl of the genus Gallus more than 72 hours old.

“Broiler Growers Manual” means the guidelines set out in the Operating Standards

“Chick” means a fowl of the genus Gallus less than 72 hours old.

“Class” of batch poultry has the meaning given in the Act, and the Explanatory Memoranda and parliamentary debates concerning the introduction of the term into the Act

“Farm” means the Grower's Farm situated at **INSERT ADDRESS**.

“Farm Facility Standards” means the Processor’s minimum facility standards contained in Annexure 2.

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

“Farm Cleanout Fee” is based on a cleanout after each Batch that will include litter removal, floor sweep, shed washdown and litter replacement

“Farm Rejects” includes runted and other birds not fit for processing, and excludes rejects or dead birds caused by pickup, transport or handling

“Grower” means the grower or its authorized representative or agent

“Minimum Base Rate” is the lowest Base Rate payable under this Agreement and is the Base Rate at the commencement of the Agreement

“Operating Standards” means the Processor’s guidelines for the management, husbandry, care and growing of Birds

“Payment” means the amount payable by the Processor (subject to and in accordance with the Act) to the Grower for the raising of saleable birds in accordance with this Agreement

“Saleable Birds” means the number of Birds in a Batch picked up (including dead on arrivals and pick up related smothers) minus Farm Rejects

“Supplies” means feed, nutritional supplements, medication, vaccines, disinfectant and other chemicals the Processor supplies to the Grower for use in growing Birds.

“Significant Adverse Effect” means

- (a) that the domestic demand for chicken or chicken products is substantially less than at the date of execution of this Agreement; or
- (b) the domestic price of chicken or chicken products is (or must become in order to remain competitive with the price of imported chicken or chicken products) substantially less than at the date of execution of this Agreement.

“Suspension Event” means an event that a party could not have prevented by taking reasonable care that prevents that party from performing an obligation under and in accordance with this Agreement.

2. Interpretation

In this Agreement, headings and highlighted text are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;

- (b) words importing a gender include any gender;
- (c) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency;
- (d) a reference to a clause, recital, party, annexure, exhibit or schedule is a reference to a clause of, and a recital, party, annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule hereto;
- (e) a reference to any thing (including, but not limited to, any right) includes a part of that thing but this does not mean that performance of part of an obligation is performance of the obligation;
- (f) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (g) a reference to a party to any document includes that party's successors and permitted assigns;
- (h) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (i) no provision of this Agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Agreement or that provision;
- (j) a covenant or Agreement on the part of two (2) or more persons binds them jointly and severally; and
- (k) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.

3. Processor Obligations

3.1 Delivery of Chicks

The Processor shall, at its sole cost, supply and deliver Batches of Chicks to the Grower.

The Chicks to be supplied and delivered shall be randomly selected by the Processor from the hatchery and vaccinated prior to delivery.

The Processor shall provide the Grower with at least [SPECIFY days] written notice of a proposed delivery of Chicks setting out the anticipated date and time of delivery and number of Chicks to be delivered.

- (a) The Processor shall supply and deliver no less than a minimum number of [INSERT AS AGREED] Batches annually over the period of this Agreement.
- (b) Chicks are to be placed at a density of [INSERT AS AGREED] birds per square metre per shed.

The Processor [\[does/does not\] make any commitments as to minimum density and throughputs or minimum returns to the Grower in return for the provision of required facilities.](#)

3.2 *Supplies*

The Processor shall, at its sole cost, supply and deliver such Supplies as are reasonably necessary, and at an appropriate standard, for the Grower to raise the Chicks in accordance with this Agreement.

The Processor shall provide the Grower with reasonable notice of at least an answered phone call of a proposed delivery of Supplies, collection of Supplies or provision of any Services, setting out the anticipated date and time.

3.3 *Services*

The Processor shall, at its sole cost, provide the Grower with such:

- (a) veterinary assistance;
- (b) professional assistance (in the form of supervision and advice relating to the management, husbandry, care and growing of Birds);
- (c) disease prevention and control assistance; and
- (d) servicemen,

as is reasonably necessary for the Grower to raise the Chicks in accordance with this Agreement.

3.4 *Collection of Birds*

Upon the Processor determining that the Birds are ready for processing, the Processor shall, at its sole cost, catch, load and transport the Birds from the Farm to such place(s) as the Processor determines.

The Processor shall provide at least [SPECIFY hours] written notice in advance of a proposed collection of Birds setting out the anticipated date and time of collection and number of Birds to be collected.

Immediately following a collection of Birds, the Processor shall provide the Grower with a record of the numbers and weights of birds collected, the amount and nature of supplies remaining on farm and any damage to the Farm Facilities incurred during pick-up for which the Processor will be responsible for the costs of repair.

It is the Processor's obligation to count and weigh collected birds.

3.5 *Weighing*

Immediately prior to a collection of Birds, the Processor shall use a certified weighbridge to weigh, gross and tare, the vehicle (together with any crates and/or pallets) that will be used to collect the Birds.

Immediately following a collection of Birds, the Processor shall use a certified weighbridge to weigh, gross and tare, the vehicle with the Birds (together with any crates and/or pallets).

- (a) The Processor must inform the Grower of any delay in the weighing of the birds that may have adversely affected the weights of the birds after leaving the Farm.

The Grower shall be entitled to be present at each such weighing and shall be provided with a copy of the weighbridge documents. The weight of Birds collected shall be deemed to be the difference between the two weighbridge documents.

3.6 Acceptance of Birds

The Processor shall be deemed to have accepted all Birds collected as fit for processing, at the time the Processor's catchers enter the Grower's shed for the purpose of catching the birds, given clause 4.9.

If any Birds collected by the Processor are rejected as unfit for processing, the Processor must notify the Grower within six hours of collection of Birds:

- (a) the notice must set out in writing the basis for the rejection, including whether the Batch picked up includes Farm Rejects;
- (b) the Grower must have an opportunity to inspect, count, weigh and photograph the rejected Birds and take copies of all Processor records relating to the rejected Birds; and
- (c) any Birds collected by the Processor and found to be dead on arrival (DOA) at the Processor's, which if still alive would have been accepted as fit for processing, shall not be deemed by the Processor to be a rejected bird. For the purposes of this Agreement the Processor agrees that any Birds DOA at the plant will be treated in the same manner as Birds smothered during collection.

The Processor will ensure that there is no unreasonable delay between pick-up, weighing the birds and birds arriving for processing.

3.7 Record keeping

At the completion of each Batch the Processor shall provide to the Grower an End of Batch summary, as soon as possible after the completion of the Batch. The End of Batch summary shall include

- (a) the breakdown of each component of the payment for Batch poultry delivered under the Agreement; and
- (b) the reason for any variation from normal payment terms, including all relevant statistical information.

3.8 Payment

The Processor shall make payments to the Grower in accordance with clause 7 and Annexure 1.

4. Grower Obligations

The Grower shall raise and care for the Chicks delivered pursuant to clause 3.1 until such time as the Processor collects the Birds.

For the avoidance of doubt, the Grower's obligation to raise and care for Chicks does not extend beyond the express written obligations set out in this Agreement.

4.1 Facilities and Operating Standards

The Grower shall provide Farm Facilities for the raising of broiler chickens in accordance with the standards in Annexure 2, and will maintain the Farm Facilities in accordance with acceptable industry standards during the duration of this Agreement.

The Grower will use reasonable care and skill to raise the Birds in accordance with this Agreement including in the provision of labour, other supplies and management services, and act in accordance with the Processor's Operating Standards set out in Annexure 3 and to be known as the Broiler Grower Manual. Prior to effecting any change to these Operating Standards, the Processor covenants with the Grower to discuss such changes and to provide the Grower written notice of any change to the Operating Standards.

The Grower shall carry out any other activities and do any other things that the parties agree are needed to raise Batch poultry.

The Grower shall provide the following supplies [TO BE INSERTED].

4.2 Farm Access

Subject to clause 4.2 (a) the Grower shall permit an agent or employee of the Processor to access the Farm, upon reasonable advance notice for the purpose of inspecting the Birds and complying with Processor obligations under this Agreement.

- (a) It shall be a condition of access to the Farm, that any servicemen and/or other representative of the Processor comply with the then current Occupational Health and Safety standards, the National Bio-Security Manual, the Processor's Operating Standards and any directions of the Grower.

4.3 Grower to acknowledge receipt of Chicks

The Grower, or its representative, must acknowledge the delivery of Chicks and the number of boxes of Chicks delivered by signing a delivery docket or consignment note.

4.4 Grower to acknowledge receipt of Supplies

The Grower must acknowledge the delivery of Supplies delivered by signing a delivery docket or consignment note as soon as practical.

4.5 Unloading Chicks

The Grower, or its representative, must be present at the time of any delivery of Chicks made by the Processor to the Farm. The Grower must provide sufficient labour, if necessary to assist unloading of Chicks such that unloading is completed within takes no more than [SPECIFY timeframe].

4.6 Deficiencies of Chicks

As soon as practicable after the delivery of Chicks, the Grower must inspect them and within 6 hours of delivery, notify the Processor of any obvious defect or deficiency in the Chicks.

4.7 Deficiencies of Supplies

As soon as practicable after the delivery of Supplies, the Grower must inspect them and notify the Processor within [SPECIFY hours] of delivery of any obvious defect or deficiency, including incorrect feed weights, in the Supplies.

The Service Person will determine whether the Supplies should be removed from the Farm.

4.8 The Processor may remove Supplies

The Grower acknowledges and agrees that all Supplies delivered by the Processor to the Grower are the property of the Processor and have been supplied solely to enable the Grower to raise the Processor's Birds.

The Grower will, at any time on demand, permit the Processor to collect all unused Supplies and provide reasonable assistance in relation to that collection if requested by the Processor.

4.9 Bird Collection

4.10 The Grower must be present before the commencement of, and be available during, the collection of Birds from each shed. The Grower is required to remove all Farm Rejects including sick, dead or inferior birds from each Batch before collection and ensure that Birds in a shed do not have access to feed before collection, to prevent feed in the crop. Birds Smothered during collection

The Grower shall notify the Processor of the number of Birds killed during the collection of Birds before 9.30 am the following morning, and shall make killed Birds available to the Processor for inspection on request.

4.11 Litter disposal

The Grower shall, at its sole cost, dispose of litter in accordance with the Processor's Operating Standards and in accordance with the law.

4.12 Record keeping

The Grower must keep accurate records about each Batch (if required by the Operating Standards) and must keep them for at least [SPECIFY years] from the date of the matters to which they relate.

If requested by the Processor, the Grower must fax copies of all records relating to daily mortality and weekly weights. All records remain the property of the Processor but the Grower will be entitled to retain copies.

5. Farm Facility Improvements

Where the Processor or Grower wishes to change the Farm Facilities during the operation of this Agreement, such improvements will be made:

- (a) by agreement, based on an assessment of the financial benefits to either party and with the full knowledge of all other growers in the same class;

(b) after negotiating a reasonable rate of return to the Grower, for making the improvements;
and

(c) in compliance with all local, State and Federal planning controls.

If the Processor requires substantial capital investment by the Grower, the Processor must provide a letter of intent and specify the assurances, if any, that the Processor will provide about renewing the contract on the expiry of the present term of this Agreement.

6. Abnormal Losses

Abnormal losses are mortality rates above the average annual mortality rate per Batch/per shed.

In the event of any disease, sickness, heat stress and/or Abnormal Losses, the Grower shall notify Processor of the same as soon as practicable, and shall take such steps as are reasonably necessary to control the disease and/or minimise the losses.

The Processor shall, at its sole cost, dispose of culled, sick and/or dead Birds, and the Grower shall assist the Processor with the removal and disposal of dead Birds.

If there are diseased and/or sick Birds and/or Abnormal Losses on the Farm due to the Grower materially breaching this Agreement, the Processor shall have the right to:

- (a) remove Birds from the Farm after notice to and consultation with the Grower; and/or
- (b) engage it's own personnel to raise and care for the Birds.

Where a compulsory slaughter of Birds (in whole or in part) is required for any reason, the Processor shall, at its sole cost, dispose of culled, sick and/or dead Birds in accordance with the Processor's Operating Standards and in accordance with the law.

7. Payment

Time for Payment is of the essence -the parties are required to pay amounts due within [INSERT] days of final collection of the Batch, subject to and in accordance with the Act.

7.1 Payment Calculation

The Processor will notify the Grower of the Payment for that Batch as soon as possible after the final collection of the Batch, such Payment to be calculated according to the Payment System set out in Annexure 1. For the avoidance of doubt where a Base Rate for poultry has not been gazetted during any six (6) month period, the Base Rate for the previous six (6) months shall be applied.

7.2 Rate Reviews

At the commencement of this Agreement the Base Rate is agreed between the parties – [SPECIFY BASE RATE PER SQUARE METRE PER BATCH]. This is the Minimum Base Rate payable under this Agreement.

Adjustments will be made to the Base Rate at regular intervals [SPECIFY] in line with movements in costs and changes in the rate of return on investment and interest rates as detailed in Annexure 1, subject to the Base Rate payable following the review is no less than the Minimum Base Rate.

7.3 Adjustments to payments

The Processor must make all payments to the Grower in full in the manner described in this Agreement without any unauthorised deduction or allowance by way of set-off, counterclaim or withholding. The Grower is entitled to payment for Birds killed during collection, or dead on arrival at the plant at the same rate as the balance of the Batch, in accordance with clause 3.6.

The Processor may deduct from any payment due to the Grower an amount calculated as the number of birds rejected by the Processor as unfit for processing multiplied by [TO BE INSERTED]. However, if there is a dispute between the Processor and Grower relating to the rejection of birds alleged to be unfit for processing, then the Processor shall not be entitled to make such deduction until the dispute is first resolved in accordance with this Agreement.

7.4 Abnormal loss

In the event of abnormal losses the Processor will assess the cause, and the Processor will pay the Grower the Base Rate, when the abnormal losses are attributable to deficiencies in the chicks or supplies, or to an act performed by the Processor (or ought to have been performed by the Processor, its employees or agent), or when neither party has acted in such a way as to result in abnormal losses.

- (a) In the event that the abnormal loss is directly attributable to an act performed by, or ought to have been performed by the Grower, the Processor may calculate the Payment to the Grower using the Base Rate and instigate action to recover reasonable costs from the Grower, subject to:
 - i. the Processor must first demonstrate the reasons as to why the Grower may be at fault;
 - ii. the matter may be mediated (as provided for in clause 19) if there is a dispute;
 - iii. the Processor may not deduct such amount from the Growers payment, without authorisation and until such time as any dispute is resolved.

7.5 Allocation of compensation for compulsory slaughter

If Birds are slaughtered as a result of a disease (including an Emergency Animal Disease outbreak) or for any other reason at the direction of the Processor or by government authority, then the Processor must pay the Grower a fair proportion of any compensation received as a result of a compulsory slaughter, such proportion comprising no less than 50% of the compensation received in respect of the slaughter of the Birds on the Grower's Farm.

7.6 Payment cannot be suspended

A suspension event (as in clause 13) does not entitle either party to delay or to refuse to pay any money due under this Agreement.

7.7 Interest charged

Without prejudice to either parties other rights and remedies, one party shall charge and the other party shall pay interest on late payments from the due date until the date paid (both dates inclusive) at the rate of 10% per annum and for any costs (including legal costs) incurred in collection of payment.

8. Ownership and Risk

Ownership and risk in and to all Chicks and Supplies are and at all times remain with the Processor.

9. Obligation of fairness

The parties will carry out their respective obligations under this Agreement promptly and will act reasonably and in good faith in all matters relating to the interpretation and carrying out of this Agreement.

The Processor shall so far as is reasonably practicable, treat growers of a particular class of batch poultry with substantially the same contract terms and conditions fairly and on materially similar terms except in such circumstances as are agreed by growers of that class of batch poultry and set out in this Agreement.

Without limiting the generality of the foregoing, the Processor shall supply and deliver, Chicks and Supplies which, so far as is reasonably practicable, are of equivalent quality to that supplied by the Processor to other Growers of the same class.

10. Audit

The Grower or a person nominated by the Grower may at an appropriate time by giving the Processor reasonable notice,:

audit:

- (a) the calculation of amounts paid to the Grower (including any adjustments);

- (b) the weighing of Birds (including any adjustments);
- (c) or inspect any birds rejected as unfit for processing, to ascertain the reasons for rejection as in Clause 3.6 ;and
- (d) the Supplies and Chicks provided to the Grower (including any adjustments).

The Processor must give the auditor reasonable assistance to carry out the audit.

Insofar as audit under clause 10(a) and 10(b) is concerned, if the audit detects an error, the amounts paid or payable shall be adjusted as soon as possible, and the Processor shall pay for the audit.

Insofar as audit under clause 10(c) is concerned, if the audit detects that the Supplies and Chicks are not of equivalent quality to that provided to other Growers under Agreement with the Processor in New South Wales then the Grower is entitled to recover any loss of income resulting from the difference in quality of supplies.

11. Term

This Agreement shall commence on 1 July 2004.

- (a) This Agreement shall, subject to early termination in accordance with this Agreement, end on 30 June 2009. If on this date the processing of any Batch subject to this Agreement is incomplete, the term of this agreement shall be extended until collection and processing of that Batch is completed

12. Further Agreement

Subject to early termination, if a party desires to enter into a new Agreement for growing Birds after 30 June 2009, that party shall notify the other in writing of the same no later than six months prior to 30 June 2009.

Upon receipt of such notice, the recipient shall within thirty (30) days of receipt of the notice, advise the other party whether it too desires to enter into a new Agreement for growing Birds after 30 June 2009.

If the recipient fails to provide a written response to the notice of intent within 30 days of receipt of the notice, or deemed receipt of the notice under the terms of this Agreement, or such longer period as may be agreed by the party that provided the notice, the Agreement will expire at the end of the term in clause 11.

If both parties desire to enter into a new Agreement for growing Birds after 30 June 2009, the parties shall negotiate the terms of a new Agreement intended to commence immediately after the 30 June 2009 in good faith.

13. Suspension

This Agreement may be suspended at any time by mutual written Agreement of both parties.

If a Suspension Event occurs, the party unable to perform the obligation shall soon as practicable provide the other party with a written notice setting out:

- (a) details of the Suspension Event;
- (b) the obligation that is unable to be performed;
- (c) the amount of time it is anticipated it will take until the obligation is able to be performed.

The obligation that is unable to be performed shall be suspended from the date the notice is given until the obligation is able to be performed, or clause 14.4 applies.

The party unable to perform the obligation shall endeavor to perform the obligation as soon as possible.

The parties agree that neither party can suspend this Agreement if the Suspension Event could reasonably have been avoided by the party requiring the suspension

13.1 Force Majeure events

Suspension events include the following "Force Majeure Events",

- (a) namely labour or industrial disputes, the action of any Local, State or Commonwealth government, fire or flood

provided that where a party seeks to rely on this clause it can only do so where the Force Majeure event prevents that party from meeting its obligations under this Agreement and providing that the party immediately (being within two business days of the Force Majeure event) notifies the other party in writing of the circumstances of the claimed Force Majeure event and provides details as to the existence and impact of such Force Majeure event.

This clause applies to the benefit of party only for so long as the relevant Force Majeure event continues. For the avoidance of doubt, pest and disease did not constitute Force Majeure.

13.2 Importation

If the Suspension Event is the significant adverse effect of the importation of chicken meat because of a fall in the domestic price and/or demand for chicken, this Agreement may be suspended for a period of up to 12 weeks.

Where a party seeks to rely on this clause it can only do so where importation prevents that party from meeting its obligations under this Agreement and providing that the party immediately (being within two business days of the importation Suspension Event) notifies the other party in writing of the circumstances of the claimed Suspension Event and provides details as to the existence and impact of importation.

This clause applies to the benefit of a party only for so long as the relevant importation Suspension Event continues.

For the avoidance of doubt there is no Suspension Event if a party could have prevented the same, and is unable to performing an obligation under and in accordance with this Agreement because the party commences importing chicken meat and products, or processing imported chicken meat or products.

14. Termination

This Agreement may be terminated at any time by mutual written Agreement of both parties.

14.1 *Immediate termination*

A party may terminate this Agreement immediately by delivery of a written notice to the other party when:

- (a) the Grower (or in a partnership, any partner) becomes
 - i. bankrupt, or insolvent;
 - ii. subject to the appointment of a receiver or manager, or an investigator to investigate its affairs;
 - iii. Subject to the making of any arrangement or composition for the benefit of creditors; or
 - iv. subject to winding up proceedings; or
- (b) the Processor becomes
 - i. Insolvent or is placed in liquidation;
 - ii. subject to the appointment of a receiver or manager, or an investigator to investigate its affairs;
 - iii. Subject to the making of any arrangement or composition for the benefit of creditors; or
 - iv. subject to winding up proceedings; or
- (c) if the Grower is a partnership or trust and
 - i. the partnership or trust is invalid, ineffective or imperfectly constituted;
 - ii. the partners or the trustees are changed (except by reason of death of a partner or trustee) without the Processor's consent;
 - iii. the terms of the partnership or trust are changed without the Processors written consent (other than a change effected by a change in the law); or
- (d) a mortgagee enters into possession of the relevant assets of the Grower; or
- (e) a mortgagee enters into possession of the relevant assets of the Processor; or
- (f) the Grower encumbers or parts with possession of any of the Processor's Supplies, except as agreed by the Processor in accordance with the terms of this Agreement;
- (g) the Grower or the Processor is unable to continue trading.

14.2 *Termination for serious breach*

If a party seriously breaches this Agreement, then the other party may provide the defaulting party with a written notice setting out the breach and requiring it to be remedied:

- (a) if the breach is capable of being remedied and has not been remedied within a reasonable period (being a period of no less than fourteen (14) days following the date of the notice), the other party may terminate this Agreement upon no less than seven (7) days prior written notice to the defaulting party;
- (b) if the defaulting party advises the other party that the breach is not capable of being remedied, the other party may terminate this Agreement upon no less than seven days (7) prior written notice to the defaulting party.

14.3 *Termination because business ceasing*

Either party may terminate this Agreement if they intend to stop growing or processing as the case may be upon no less than six (6) months prior written notice to the other party.

14.4 *Termination following suspension*

Either party may terminate this Agreement if:

- (a) the period of suspension of an obligation exceeds three (3) months; and
- (b) the obligation suspended is serious or material,

upon no less than one (1) months prior written notice to the other party.

14.5 *Termination takes effect*

Termination of this Agreement shall take effect:

- (a) if there is a Batch on the Farm on the date the notice is given, on the date at which the last Birds in that Batch are collected from the Farm; or
- (b) if there is no Batch on the Farm on the date the notice is given, on the date specified in the notice.

Within fourteen (14) days of termination, Processor shall, at its expense, remove all remaining Birds and Supplies on hand at termination from the Farm.

The termination or expiry of this Agreement shall not affect any accrued rights or liabilities of either party, nor shall it effect the coming into force or the continuance in force of any clause hereof which is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

15. Insurance

15.1 *Growers Insurances*

During the term of this Agreement the Grower shall maintain the following insurances:

- (a) Workers' compensation insurance, together with insurances including common law liability to its employees
- (b) insurance against liability to its employees, agents and contractors to the Processor for loss or injury;
- (c) insurance against damage by fire, at replacement value;

- (d) insurance against liability in respect of death, loss or injury, and in respect of other risks usually covered by public liability policies.

15.2 Processor's Insurances

During the term of this Agreement the Processor shall maintain the following insurances:

- (a) workers' compensation insurance, including common law liability;
- (b) insurance against liability to its employees, agents or contractors and to the Grower for loss or injury; and
- (c) insurance against liability in respect of death, loss or injury, or property damage in respect of all actions by its employees, agents and servants.

The Processor shall ensure that all contractors engaged by it, and who are required to attend the Grower's farm, maintain appropriate insurances.

16. Confidentiality

"Confidential Information" means information that is designated by a party as confidential and includes any intellectual property made available by the other party but does not include:

- (a) Information which a party is legally provided with by a third party without restriction on its use or disclosure;
- (b) Information that is or becomes public knowledge other than by breach of this Agreement.

A party is to use the Confidential Information only for the purposes of this Agreement.

A party must not, without the prior written consent of the other party, disclose any Confidential Information or intellectual property made available for the purposes of this Agreement, of the other party, to a third party.

In giving written consent to the disclosure of Confidential Information, a party may impose such conditions as it thinks fit, and the other party agrees to comply with these conditions:

- (c) A party may at any time require the other party to arrange for:
 - i. its legal and/or financial advisers; or
 - ii. any other third party to whom information may be disclosed;

to give a written undertaking in the form of a deed relating to the use and non-disclosure of the first party's Confidential Information. If the other party receives a request under this clause it must promptly arrange for all such undertakings to be given.

The obligations on the parties under this clause 18 will not be taken to have been breached to the extent that Confidential Information:

- (d) is disclosed by a party to its legal and/or financial advisers or employees solely in order to comply with obligations, or to exercise rights, under this Agreement;
- (e) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of Agreement-related activities;

- (f) is authorised or required by law, including under this Agreement, under a licence or otherwise, to be disclosed; or
- (g) is in the public domain otherwise than due to a breach of this clause 18.

Where a party discloses Confidential Information to another person pursuant the disclosing party must:

- (h) notify the receiving person that the information is Confidential Information; and
- (i) not provide the information unless the receiving person agrees to keep the information confidential.

Upon expiry or termination of this Agreement, each party shall, if requested by the other party in writing, promptly return or destroy all confidential information. The obligations under clause 18 survive the expiry or termination of this Agreement.

17. Exclusions and Limitations of Liability

The Processor agrees to indemnify the Grower for any claims, liabilities or damages that may result from the activities on the Farm concerning the Processors birds, and the use of the Processors supplies, where the Grower has complied with this Agreement and relevant local, State and Federal legislation.

18. GST

Each party shall during the term of this Agreement be registered for GST purposes.

Any amount referred to in this Agreement is exclusive GST unless it is expressly included.

If GST is imposed on any supply (or deemed supply) made under or in connection with this Agreement, then the consideration for that supply is increased by an amount equal to the amount that consideration multiplied by the rate at which GST is imposed in respect of that supply.

The party making a taxable supply shall provide the other party with a GST tax invoice.

19. Dispute Resolution

If a dispute arises out of or relates to this Agreement (including any dispute as to breach or termination of the Agreement or as to any claim in tort, in equity or pursuant to any statute) a party to the Agreement may not commence any court or arbitration proceedings relating to the dispute unless it has complied with the following paragraphs of this clause except where the party seeks urgent interlocutory relief.

A party to this Agreement claiming that a dispute ('the Dispute') has arisen under or in relation to this Agreement must

- (a) give written notice to the other party to this Agreement specifying the nature of the Dispute.
- (b) On receipt of that notice ('the Notice') by that other party, the parties to this Agreement ('the parties') must endeavour in good faith to resolve the Dispute expeditiously by negotiation between persons who have authority to settle the Dispute and who are at a

higher level of management than persons with direct responsibility for the administration of the operative effects of this Agreement.

If, for any reason whatsoever, after fourteen (14) days of the receipt of the Notice, the Dispute has not been resolved

- (c) either party may notify the other that it desires the assistance of an independent person, or persons, to assist in the resolution of the Dispute,
- (d) in which case, the parties must endeavour in good faith to resolve the Dispute expeditiously by using assisted informal dispute resolution techniques such as mediation, conciliation, neutral evaluation or binding or non binding expert determination or similar techniques agreed by them.

If the parties do not agree within fourteen (14) days of receipt of the Notice (or such further period as agreed in writing by them) as to

- (e) the dispute resolution technique and procedures to be adopted
- (f) the timetable for all steps in those procedures and
- (g) the selection and compensation of the independent person or persons required for such technique,

The parties must mediate the Dispute in accordance with the rules set down by the independent person and the President of the Law Society of New South Wales or his/her nominee will select the independent person, or persons, to conduct the mediation, and determine their remuneration.

The parties agree that any independent person in such dispute resolution acts as an expert and not as an arbitrator.

All communications concerning negotiations made by the parties arising out of and in connection with this clause are confidential, and, to the extent possible shall be treated as 'without prejudice' compromise and settlement negotiations for the purpose of applicable rules of evidence.

If the dispute is still not resolved - and only then - the parties may each:

- (h) terminate the dispute resolution process by giving the other notice in writing; and
- (i) refer the dispute to the PMIC under section 18 of the Act and/or commence legal proceedings.

In the event that the Dispute is not resolved either party has the right to insist upon a further mediation and/or arbitration process.

In the event that the Dispute remains unresolved, after this further mediation and arbitration, a party may prove objective facts, whether or not confidential, by direct evidence in any court proceedings in respect of the Dispute.

The obligations under this clause survive the expiry or termination of this Agreement.

20. Inconsistency

In the event of any inconsistency between the terms of this Agreement, and the annexures to it, this document shall prevail.

In the event of any inconsistency between this Agreement, the Act, and the PMIC guidelines the order of priority shall be:

- (a) The Act;
- (b) The PMIC Guidelines;
- (c) This Agreement.

21. Relationship of Parties

The Processor and Grower are independent contractors. Neither party will make any warranties or representations or assume any obligations on the other party's behalf. Neither party is nor will claim to be a representative, partner, joint venturer, franchisee, agent or employee of the other party.

22. Notices

22.1 Giving of Notices

Any notice or other communication including, but not limited to, any request, direction, consent or approval, required or permitted to be given to or by a party must be legibly written in English and addressed as below:

- (a) if to Processor:

Address:

Attention: **INSERT**

Facsimile: **INSERT**

- (b) if to the Grower:

Address:

Attention: **INSERT**

Facsimile: **INSERT**

- (c) or as specified to the sender by the recipient party by notice; and
- (d) where the sender is a company, must be signed by an authorised officer of, or under the common seal of, the sender.

22.2 Receipt of Notices

A notice given under this clause 22 is regarded as being given and received:

- (a) if by delivery in person, when delivered to the recipient's address;
- (b) if by post, five (5) business days from and including the date of postage to the recipient's address; or
- (c) if by facsimile transmission, whether or not legibly received, when transmitted to the recipient's address,
- (d) but if the delivery or receipt is on a day which is not a business day or is after 5.00pm (recipient's time) it is regarded as received at 9.00 am on the following business day.

22.3 *Recipient's officers, employees and agents*

In this clause, a reference to a recipient includes a reference to the recipient's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent, or employee of the recipient.

23. Prohibition and enforceability

Any provision of, or the application of any provision of, this Agreement which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.

Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions of this Agreement in that or any other jurisdiction.

24. Waivers

Any failure, delay, relaxation or indulgence on the part of any party in the exercise, or partial exercise, of any right or power created or arising from the operation or a breach of this Agreement or the occurrence of any other event does not operate or result in a waiver of that right or power.

Any partial or single exercise of any right or power created or arising from the operation or a breach of this Agreement or the occurrence of any other event, does not affect or preclude the further exercise of it or any other such right or power.

A party may not rely on any conduct of another party as a defence to exercise of a right or power by that other party.

The waiver of any right or power created or arising from the operation or a breach of this Agreement or the occurrence of any other event must be in writing and signed by the party granting the waiver. This clause cannot itself be waived except in writing.

25. Variation

This Agreement can only be amended or supplemented in writing signed by all the parties following approval by the PMIC in accordance with the then current guidelines, subject to Clause 20.

Where the variation to this Agreement requires substantial investment by the Grower, subject to clause 5, the Processor must provide the Grower with a letter of intent and specify the assurances, if any, that the Processor makes about renewing the agreement.

26. Cumulative rights

The rights and powers under this Agreement are cumulative and do not exclude any other right, power, authority, discretion or remedy of a party.

27. Costs and stamp duty

Subject to any other provision of this Agreement, each of the parties must pay its own costs and expenses (including, but not limited to, legal fees) incurred in the preparation, execution and performance of this Agreement.

Processor must pay any stamp duty (including any penalty) assessed or payable in connection with this Agreement.

28. Enurement

The provisions of this Agreement shall enure for the benefit of and be binding on each party's successors, estate administrators (or legal personal representatives) and permitted assigns.

29. No assignment

A party may not assign, transfer or novate all or any part of its rights or benefits under this Agreement except with the prior written consent of the other parties, and that consent is not to be unreasonably withheld.

30. Further Assurances

Each party shall do or sign, execute and deliver all further acts or things, Agreements, documents or instruments reasonably required of it by notice from the other parties to effectively carry out and give full effect to this Agreement and the transactions contemplated in it.

31. Continuing Obligations

The provisions of this Agreement which are capable of surviving are continuing obligations and do not merge on completion.

32. Governing Law

This Agreement is governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts exercising their jurisdiction.

33. Legislative Change

In the event of any amendment to the Act, and/or any repeal of the Act materially affects the ability of either party to perform their obligations under this Agreement, the parties shall negotiate in good faith to amend this Agreement only to the extent necessary to enable continued performance under this Agreement.

34. Counterparts

This Agreement may be executed in any number of counterparts and exchanged (including by facsimile) and all counterparts taken together, constitute the one instrument.

35. Entire Agreement

This Agreement is the entire Agreement of the parties related to the subject matter hereof and supersedes all other representations, negotiations, arrangements, understandings or Agreements and all other communications.

36. Execution

Executed as an agreement:

The common seal of
[INSERT PROCESSOR NAME]
is fixed to this document
in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

Executed By
[INSERT GROWER NAME]
in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

Annexure 1 - Payments

Annexure 2 – Farm Facility Standards

Annexure 3 – Operating Standards

Annexure 4 - Biosecurity Standards

Annexure 5 – Processor/Grower certificate of independent legal advice

Annexure 6 – Processor/Grower certificate of independent financial advice

Annexure 7 – Processor/Grower acknowledgement as to PMIC role

Annexure 1 –Payment System

This is a Standard Agreement under the Act.

Adjustments to the Base Rate at regular intervals will take into account the impact of:

- (a) increases or decreases in the Grower's operational costs (Farm Operating Costs, FOC)
- (b) changes in the length of the rearing period (D);
- (c) the level of actual and projected annual throughput (T);
- (d) a market rate of return on capital (risk adjusted) to the Grower, incorporating economic life depreciation of equipment and facilities

Farm Operating Costs, include but are not limited to:

- (a) Manager's income
- (b) Corporate costs associated with growing birds under this Agreement;
- (c) wages and salaries for farm workers;
- (d) rates and council planning fees
- (e) insurance
- (f) accounting
- (g) vehicle costs
- (h) administration and office costs
- (i) working capital charges
- (j) depreciation
- (k) repairs and maintenance
- (l) electricity
- (m) gas
- (n) disposal of litter and/or dead birds

Annexure 2 – Farm Facility Standards (EXAMPLE)

No	ITEM
A	ROOF, WALLS & FLOORS
A1	Roof insulation value - must maintain > 2 R
A2	Floors to be constructed of a hard and level compound to enable sweeping
B	FANS
B1	Stirring fans providing 5,000 cfm of air movement for every 1,000 square metres of floor space.
C	FOGGERS
C1	At least three lines of SF2 type nozzles placed 3metres apart.
D	BROODING
D1	≥ 20 BTU/bird placed. Heaters spread evenly along the shed to aid rapid bird expansion
D2	Recommend at least one Backup heater on-farm
D3	Minimum of half-shed brooding placement set-up with detachable curtains or approved equivalent
D4	Scratch trays required at 500 chicks/ tray for non-flood fill feed pans
D5	Ability to provide heat to weaning let out areas of at least 75% of the shed floor space.

E**FEED**

- E1 Feed pans to meet manufactures recommendations or 70 birds per pan
- E2 Feed lines to be placed evenly across the shed
- E3 Ability to meal feed up to 10 times per day
- E4 Winching system capable of raising feeders to 2.4 m above the litter
- E5 Adequate restraints for supporting feed lines when raised
- E6 1 Tonne/1000 birds placed storage
- E7 Feed silos to have suitable breather system & blower tubes
- E8 Split silos, multiple silos per shed or centralized silo systems
- E9 All new/replacement silos must meet safety standards for ladders/platforms/cages
- E10 All weather roads with easy access for all feed trucks

F**LIGHTING**

- F1 Ability to have programmed lighting periods upto 6 times per day
- F2 Lighting – minimum 1 fluorescent or incandescent light per bay
- F3 Lighting capability of 40 lux min. at placement, 10 lux thereafter

G**PICK UP**

- G1 Smooth shed entrances at pickup doors
- G2 All weather roads with easy access to pickup pads and doorways
- G3 Pickup areas must be maintained for all weather conditions and be hard, flat with a max. slope of < 1/24
- G4 Doors to be minimum of 3m wide and 2.4m high
- G5 All hazards marked with appropriate markers/signage/reflectors
- G6 A minimum pad area to allow two-48 foot trailers/shed; min. pad size - 25 m x 30 m/shed (tolerance 5%)
- G7 1 row of dimmable lights in the center of the shed running the full length

H**WATER**

- H1 Nipple drinkers to installed to manufactures recommendation and evenly distributed throughout the shed
- H2 Rec. Min. nipple drinker flow rate: ≥ 120 ml's/minute from all nipples when under full bird drinking demand
- H3 Water must be of potable quality
- H4 A filter system with auto-chlorinator or equivalent will be required for all open water sources.
- H5 Maintain ≥ 2 PPM "chlorine" at the outlet of the holding tank (record & log chlorine levels weekly)
- H6 Water storage capacity - 24 hours supply based on a minimum of 1 litre/bird
- H8 Minimum bore flow rate - 2,500 litre/hour per shed (e.g., 25,000 bird shed)
- H9 Approved medication tank /system for each shed, (eg. 2,200 litres/shed)

K**OCCUPATIONAL HEALTH & SAFETY**

- K1 Fans guarded
- K2 Internal obstructions to be adequately marked.
- K3 Augers guarded or screened
- K4 Regular inspection of electrical systems
- K5 Overhead power lines to be of sufficient height.
- K6 Relevant safety & warning signage.

Annexure 3 – Broiler Grower Manual Operating Standards (Example)

- 1 Biosecurity Hygiene
 - 1.1 Effective rodent/wild bird/litter beetle control programs
 - 1.2 No avian or ratite species to be kept on the farm.
 - 1.3 Farm and domestic and wild animals not to enter shed or are in immediate shed environs
 - 1.4 Surface water used must be sanitised (eg. Chlorinated)
 - 1.5 Farm visitors must change into clean overalls/boots before entering sheds and Ranges.
 - 1.6 Footbaths, containing an approved disinfectant, placed at each door entry to shed
 - 1.7 Dispose dead bird as per EPA and local council regulations
 - 1.8 Treat flocks as directed by medication instructions
 - 1.9 Remove dead birds and cull sick and runted birds on a daily basis
 - 1.10 Maintain good friable dry litter during the batch
 - 1.11 Provide a minimum depth of XXmm litter at placement
 - 1.12 All spilt feed to be promptly swept up around feed bins and disposed of
 - 1.13 Clear shed of all sick and dead birds before Pickup commences
- 2 Single Batch Clean Outs

- 2.1 Every shed to be cleaned out of all litter after each batch
- 2.2 Empty feed lines and pans
- 2.3 Remove litter – Preferably off site or at least a minimum of 300m from sheds and Ranges if stored on farm
- 2.4 New litter may only be stored in an approved shaving shed or a minimum of 300 metres from birds
- 2.5 Shed to be swept clean of all litter after litter is removed.
- 2.6 Maintain floors between batches. To be hard, flat and free of pot holes
- 2.7 Maintain solid rat-walls
- 2.8 High pressure/low volume water-detergent wash to remove all old litter and dust
- 2.9 No shed to be disinfected until all sheds are cleaned out of litter and washed down
- 2.10 Spray/wash all shed/equipment surfaces with an approved disinfectant
- 2.11 Clean the water tank and flush the watering system with an approved disinfectant
- 2.12 Hold Material Safety Data sheets (MSDS) for chemicals used
- 2.13 Check silos after each batch and remove mouldy or caked feed

3 Brooding

- 3.1 Sufficient labour is available on-farm for the unloading day-olds (max. time = Xchicks)
- 3.2 All sheds must be pre-heated to a minimum of CC° C for Y hours depending on brooder type.
- 3.3 All weaning areas must be pre-heated for V hours during expansions
- 3.4 Notify hatchery and service-managers immediately any deficiency with placement occurs.

4 Bird Environment

- 4.1 Minimise birds beaking from heat stress
- 4.2 Minimise birds huddling from cold stress
- 4.3 Minimise crowding due to poor uneven shed distribution/incorrect expansion

5 Feed

- 5.1 Order feed volumes as recommended
- 5.2 Set feed levels in the pans to prevent feed wastage

6 Pick up

- 6.1
- 6.2

7 Records

- 7.1
- 7.2

Annexure 4 – Biosecurity Standards (Example)

- 1 The Grower must not bring any live or dead Birds onto the Farm other than Birds that have been wholly reared by the Processor.
- 2 The Grower must immediately notify The Processor of any disease or other issue in respect of any live or dead Bird on the Farm.
- 3 The Grower must ensure that any Vehicles, crates or other Equipment which has been in contact with any live or dead Birds at any time is cleaned and disinfected to a standard approved by The Processor (in its absolute discretion) before being brought onto the Farm.
- 4 The Grower must maintain good and sanitary conditions at all times on the Farm, including in relation to manure control, rodent control, fly control and odour control.
- 5 The Grower must ensure that agents and employees of the Grower and visitors to the Farm, entering the Farm:
 - (a) have had no contact with live or dead Birds (other than those Birds owned by The Processor) for 7 consecutive days before entering the Farm;
 - (b) wear clean clothes;
 - (c) only bring cars onto the Farm which have not been driven or otherwise located on any poultry growing or processing facility, other than premises owned and operated by The Processor;
 - (d) comply with The Processor's quarantine and bio-security policies, as notified by The Processor to the Grower from time to time;
 - (e) do not keep any birds at their place of residence; and
 - (f) have not within 7 consecutive days before entering the Farm entered any other property used for the growing or processing of birds other than the a property owned by The Processor.

Annexure 5

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

On this _____ day of _____, 20____, I was consulted by _____ as to the effect of Processor/Grower executing the Poultry Growing Agreement attached hereto.

I explained to _____ the nature of the Agreement and advised him/her fully as to:

- (a) the legal rights, obligations and liability which the Processor/Grower would incur by executing it; and
- (b) the advantages and disadvantages, at the time that the advice was provided, of entering into the Agreement

I am satisfied that _____ fully understands the legal nature and effect of executing the Agreement and that in executing the Agreement is acting freely and voluntarily.

Solicitor for the Processor/Grower:

Solicitor's Address:

Solicitor's Signature:

Witness (print name):

Date:

Annexure 6

CERTIFICATE OF INDEPENDENT FINANCIAL ADVICE

On this _____ day of _____, 20____, I was consulted by _____ as to the effect of Processor/Grower executing the Poultry Growing Agreement attached hereto.

I explained to _____ the nature of the Agreement and advised him/her fully as to:

- (a) the financial rights, obligations and liability which the Processor/Grower would incur by executing it; and
- (b) the financial advantages and disadvantages, at the time that the advice was provided, of entering into the Agreement

I am satisfied that _____ fully understands the financial nature and effect of executing the Agreement and that in executing the Agreement is acting freely and voluntarily.

Accountant for the Processor/Grower:

Accountant's Address:

Accountant's Signature:

Witness (print name):

Date:

Annexure 7

ACKNOWLEDGEMENT AS TO PMIC ROLE

On this _____ day of _____, 20____,

I _____ an
authorised representative of Processor/Grower acknowledge that in determining whether or not to
approve the Poultry Growing Agreement attached hereto, the PMIC is bound to act in accordance
with the Poultry Meat Industry Act 1986 (NSW)..

Processor/Grower:

Processor/Grower Address:

Processor/Grower Signature:

Witness (print name):

Date: