

## Shearing Advance and Consignment Terms

In requesting a Shearing Advance, the Customer in Section A and each person signing the Shearing Advance Application Form (“**Application**”) (jointly and severally the “**Applicant**”) acknowledges and agrees to be bound by these Shearing Advance and Consignment Terms (“**Terms**”). The Terms form part of the contract for the consignment of wool (“**Consignment Contract**”) between the Applicant and Viterra Ltd ABN 59 084 962 130 (“**Viterra**”) or an entity which is, or may in the future become, a related body corporate of Viterra (“**Viterra Entity**”).

In these Terms, a reference to Viterra includes a Viterra Entity.

References to a 'Section' in these Terms is a reference to a section in the Applicant's Application.

### 1. Acceptance of Application

Viterra may in its absolute discretion accept or refuse an Application. Viterra accepts an Application when an authorised representative of Viterra signs the Application (“**Commencement Date**”). Viterra may additionally send a letter to the Applicant confirming its acceptance (“**Letter of Confirmation**”).

### 2. Shearing Advance

- 2.1. Viterra will pay the shearing advance set out in Section C (“**Shearing Advance**”) to the Applicant's bank account nominated in Section F (“**Nominated Account**”) on or before the date nominated in Section C. The date on which the Shearing Advance is paid to the Nominated Account is the 'Advance Date'.
- 2.2. The amount of the Shearing Advance will be based on the discounted value of the wool (as determined by Viterra) that the Applicant has agreed to deliver to Viterra in Section D under the terms of the Consignment Contract (“**Consigned Wool**”).
- 2.3. The maximum Shearing Advance is \$150,000.

### 3. Delivery of Consigned Wool to Viterra

- 3.1. The Applicant must deliver the Consigned Wool to Viterra to sell in accordance with the terms of this Consignment Contract.
- 3.2. The Applicant warrants that the value of the Consigned Wool will, upon sale, be sufficient to effect repayment of the Shearing Advance in full.

### 4. Terms of Delivery

The Applicant must deliver the Consigned Wool to Viterra:

- 4.1. at a location nominated by Viterra in Section D;
- 4.2. no later than sixty (60) days after the Advance Date (the 60th day being the “**Delivery Date**”); and
- 4.3. on any other terms reasonably directed by Viterra.

### 5. Interest

- 5.1. No interest will be charged on the Shearing Advance for the period prior to the Delivery Date.
- 5.2. From the day after the Delivery Date, interest (“**Interest**”) will apply at a variable rate (“**Interest Rate**”) on the outstanding balance of the Shearing

Advance from time to time (including any Interest accrued but unpaid) (“**Loan Balance**”).

- 5.3. Interest is calculated, and accrued, daily.
- 5.4. The Applicant must pay the Interest monthly.
- 5.5. The Applicant agrees that, Viterra may at its discretion, vary the Interest Rate from time to time. Where Viterra varies the Interest Rate, Viterra may do so immediately and without providing prior notification, by publication of the amendment on its Website in accordance with item 6.1 of Section H of the Application.

### 6. Delivery default

- 6.1. Failure by the Applicant to deliver the Consigned Wool on or before the Delivery Date is deemed to be an Event of Default for the purposes of clause 14 of these Terms.
- 6.2. If the Applicant does not deliver the Consigned Wool to Viterra on or before the Delivery Date, Viterra will:
  - 6.2.1. apply Interest to the Loan Balance in accordance with clause 5.2;
  - 6.2.2. terminate the Consignment Contract in accordance with clause 14 in which case, clause 14.4 will apply; and
  - 6.2.3. set off any other amount due to the Applicant from Viterra for commodities delivered by the Applicant or on the Applicant's behalf to Viterra.

### 7. Authorisation to sell

- 7.1. Viterra must use reasonable efforts to market the Consigned Wool for sale.
- 7.2. The Applicant authorises Viterra to sell the Consigned Wool at a price the Applicant has:
  - 7.2.1. nominated as an approved sale price; or
  - 7.2.2. consented to (following Viterra notifying the Applicant of the market price(s) from time to time), (“**Approved Sale Price**”).
  - 7.2.3. The Applicant agrees to pay to Viterra the commission in Section D for its marketing services (“**Commission**”). The Applicant further acknowledges that Viterra may be paid a fee or commission by the purchaser of the Consigned Wool.

### 8. If Approved Sale Price cannot be obtained

If, by the date which is 30 days after the Delivery Date, Viterra has not sold the Consigned Wool at the Approved Sale Price, Viterra may sell the Consigned Wool at a price determined by Viterra in its absolute discretion.

### 9. Application of sale proceeds

The Applicant agrees that the proceeds of sale of the Consigned Wool will be applied by Viterra in the following order:

- 9.1. to repay the Loan Balance and Commission due to Viterra under the Consignment Contract;
- 9.2. to repay any other amount due by the Applicant to Viterra on any account; and
- 9.3. to transfer the remaining proceeds of sale (if any) to the Nominated Account.

## 10. Repayment – no sale or insufficient sale proceeds

### 10.1. If Viterra cannot sell:

- 10.1.1. any of the Consigned Wool; or
- 10.1.2. sufficient Consigned Wool to recover all monies due to it under the Consignment Contract, within 30 days of the Delivery Date, then
- 10.1.3. the Applicant is deemed to have committed an Event of Default for the purposes of clause 14 of these Terms;
- 10.1.4. title in the Consigned Wool passes to Viterra; and
- 10.1.5. Viterra may, in addition to its rights under clause 14.4 of these Terms, set off any other amount due to the Applicant from Viterra for commodities delivered by the Applicant or on the Applicant's behalf to Viterra.

- 10.2. The Applicant agrees that if for some reason, Viterra has to refund or give up any money which Viterra recovers in any way, the Applicant owes Viterra all the money that the Applicant would have owed if the amount refunded or given up had never been paid to Viterra or received by Viterra. The Applicant will do everything the Applicant can to restore to Viterra any rights against the Applicant or the Applicant's property which Viterra had before it received the money which it later had to refund or give up. This clause survives any termination of the Consignment Contract or full or partial discharge of any security granted to Viterra by the Applicant in respect of the Consignment Contract.

## 11. Title and risk

- 11.1. Subject to clause 10.1.4, title to the Consigned Wool delivered to Viterra will remain with the Applicant until the Consigned Wool is sold.
- 11.2. The Consigned Wool is at the risk of the Applicant until it is sold.

## 12. Representations and warranties

- 12.1. The Applicant represents and warrants the following upon entry into the Consignment Contract (and repeats each representation and warranty when the Consigned Wool is delivered to Viterra):
  - 12.1.1. the Applicant is duly authorised and has free and full power to enter into the Consignment Contract;
  - 12.1.2. the Applicant has good title to the Consigned Wool;
  - 12.1.3. the Consigned Wool delivered meets the relevant Viterra receival standards;
  - 12.1.4. there is no default by the Applicant under the Consignment Contract;
  - 12.1.5. all information set out in the Application is true and correct in every particular and is not false or misleading. The Applicant has disclosed to Viterra all information which a reasonable person would consider relevant to Viterra's decision to grant the Shearing Advance;
  - 12.1.6. if the Applicant is a company, the directors of the Applicant have determined that it is in

the Applicant's best interests to apply for and obtain a Shearing Advance from Viterra pursuant to the terms of the Consignment Contract;

- 12.1.7. the Applicant has not committed an act of bankruptcy, the Applicant is not insolvent and has not entered into any arrangement, composition or assignment for the benefit of creditors;
  - 12.1.8. there are no wool or livestock liens or other encumbrances existing in respect of or in connection with any wool to be delivered by the Applicant or on the Applicant's behalf to Viterra under the Consignment Contract;
  - 12.1.9. the Applicant will not grant any wool or livestock lien or any other security over any wool delivered, or to be delivered pursuant to the Consignment Contract, or otherwise encumber or deal with any of that wool without the prior written consent of Viterra; and
  - 12.1.10. the Shearing Advance will be used wholly or predominantly for business or investment purposes other than investment in residential property, and that by signing the Business Purpose Declaration, the Applicant acknowledges that the Applicant may lose protection under the National Credit Code.
- 12.2. Viterra will be relying on the declarations by the Applicant in the Application in providing financial accommodation to the Applicant.

## 13. Trust representations and warranties

If the Applicant is the trustee of a trust ("**Trust**"), the Applicant represents and warrants to Viterra that:

- 13.1. the Applicant has the right to be indemnified out of, and a lien over, the assets of the Trust for all liabilities incurred by it under the Consignment Contract;
- 13.2. Viterra has the benefit of the Applicant's rights of indemnity against, and lien over, the assets of the Trust and has recourse to the assets of the Trust to satisfy the Applicant's liabilities under the Consignment Contract;
- 13.3. the Applicant has the full power and authority to enter into the Consignment Contract under the instrument creating the Trust; and
- 13.4. it enters the Consignment Contract and is bound both personally and in its capacity as a trustee.

## 14. Default and termination

- 14.1. An event of default ("**Event of Default**") occurs if:
  - 14.1.1. the Applicant fails to pay to Viterra any amount payable under the Consignment Contract on or before the date specified under the Consignment Contract;
  - 14.1.2. any of the representations and warranties made by the Applicant under the Consignment Contract are incorrect or become incorrect;
  - 14.1.3. the Applicant becomes insolvent or commits an act of bankruptcy within the meaning of section 40(1) of the *Bankruptcy Act 1966* (Cth) or the Applicant becomes insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);
  - 14.1.4. if the Applicant is a corporation, the Applicant becomes insolvent or becomes an externally-administered body corporate

- within the meaning of the *Corporations Act 2001* (Cth);
- 14.1.5. if the Applicant is a corporation, there is in Viterra's opinion a substantial change of a detrimental nature (direct or indirect) in the Applicant's business, management, ownership or control;
  - 14.1.6. the Applicant is otherwise in breach of the Consignment Contract;
  - 14.1.7. the Applicant is in breach of any security granted by the Applicant to Viterra or to any other person;
  - 14.1.8. the Applicant withdraws any authorisation it has granted under the Consignment Contract; and
  - 14.1.9. any person enforces a security or takes out a distress or execution against any of the Applicant's assets.
- 14.2. The Applicant must notify Viterra immediately upon the occurrence of an Event of Default.
  - 14.3. If the Applicant is the trustee of a Trust, and upon the occurrence of an Event of Default and while the Event of Default subsists the Applicant:
    - 14.3.1. must not exercise its powers or discretions under the Trust without Viterra's consent; and
    - 14.3.2. must exercise its rights of indemnity against the assets of the Trust on demand.
  - 14.4. Upon the occurrence of an Event of Default, Viterra may:
    - 14.4.1. declare by notice to the Applicant that the Loan Balance is immediately due for payment and require the Applicant to pay the Loan Balance;
    - 14.4.2. recover from the Applicant any losses, costs and expenses Viterra incurs as a result of or in connection with the Applicant's default including those associated with the actual or attempted preservation or enforcement of the Consignment Contract; and
    - 14.4.3. terminate the Consignment Contract by sending the Applicant a Termination Notice.
  - 14.5. If Viterra holds any security in respect of the Applicant's property, Viterra may, upon the occurrence of an Event of Default:
    - 14.5.1. appoint one or more receivers or receivers and managers (Receivers) over any of the Applicant's property that is subject to a security which may include the Consigned Wool (Secured Property), remove or replace any one or more of the Receivers, and fix their remuneration. To the extent that the law permits, the Receivers will be the Applicant's agents;
    - 14.5.2. take possession of the Secured Property;
    - 14.5.3. sell the Secured Property in one or more lots; and
    - 14.5.4. do anything the Applicant could do in relation to all or part of the Secured Property.
  - 14.6. Upon the occurrence of an Event of Default, for valuable consideration the Applicant appoints Viterra and any of its representatives as the Applicant's attorney to do anything that the Applicant could do in relation to the Consigned Wool, including but not limited to making arrangements to enter the Applicant's property to shear the stock bearing the

Consigned Wool, collecting the Consigned Wool and selling the Consigned Wool and applying the proceeds of the sale of the Consigned Wool to repay the monies owing by the Applicant to Viterra. To the extent permissible by law, all expenses relating to the shearing of the stock and selling of the Consigned Wool shall be incorporated with and deemed to be part of the monies owing by the Applicant to Viterra. The Applicant cannot revoke this power of attorney.

## 15. Indemnity

- 15.1. The Applicant indemnifies Viterra and keeps Viterra indemnified against all losses caused, or contributed to, by the Applicant in connection with or in relation to Viterra providing the Shearing Advance under the Consignment Contract (including any claim by any person of an interest in the Consigned Wool or in any proceeds of sale of the Consigned Wool) and against all losses incurred by Viterra in enforcing the Consignment Contract.
- 15.2. The Applicant further agrees to indemnify Viterra against all losses that Viterra may suffer due to any claim, demand or action of any kind brought against Viterra by any person arising directly or indirectly because the Applicant:
  - 15.2.1. failed to observe any of its obligations under the Consignment Contract;
  - 15.2.2. acted negligently or fraudulently in connection with the Consignment Contract; or
  - 15.2.3. failed to follow any law or regulation in connection with this Consignment Contract.
- 15.3. Each indemnity is a continuing obligation, separate and independent from the Applicant's other obligations and survives termination of the Consignment Contract.
- 15.4. The Applicant acknowledges and agrees that Viterra may set off any monies due by Viterra to the Applicant against amounts due by the Applicant to Viterra under these indemnities.

## 16. GST

- 16.1. A word or expression used in this clause which is defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (GST Law) has the same meaning in this clause 16.
- 16.2. Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in relation to the Consignment Contract are exclusive of GST.
- 16.3. If GST is payable by the supplier on any supply made under or in relation to the Consignment Contract or any transaction contemplated by it, the recipient must pay to the supplier an amount equal to the GST payable on the supply. That amount must be paid at the same time that the consideration for the supply is to be provided or under or in relation to the Consignment Contract and must be provided in addition to the consideration expressed elsewhere in the Consignment Contract. The supplier must, upon receiving that amount from the recipient, and if permitted or required by the GST Law to do so, provide the recipient with a tax invoice in respect of the supply.
- 16.4. Where a party is required under or in relation to the Consignment Contract to pay for or reimburse an expense or outgoing of another party, the amount to be paid by the first party is the sum of:
  - 16.4.1. the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing that the other party is entitled to; and

16.4.2. if the payment by the first party is consideration for a taxable supply, an amount equal to the GST payable by the other party in respect of the payment.

16.5. The Applicant must be registered for payment of GST or must provide Viterra with evidence that the Applicant qualifies for a GST exemption.

16.6. The Applicant must immediately reimburse Viterra for any amount incorrectly paid to the Applicant as GST.

## 17. Miscellaneous

17.1. The Applicant may not transfer or otherwise assign the rights, entitlements and obligations under the Consignment Contract. Viterra may assign the rights, entitlements and obligations in respect of the Consignment Contract at any time, without requiring the Applicant's consent.

17.2. A clause or part of a clause in these Terms that is illegal or unenforceable may be severed from the Terms and the remaining clauses or parts of the Terms continue in force.

17.3. Viterra does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by Viterra.

17.4. The Applicant must do all things reasonably required to facilitate the performance of the transactions contemplated by the Consignment Contract.

17.5. If the Applicant has a complaint regarding the Consignment Contract, the Applicant may notify Viterra by:

phone: 1800 018 205

fax: 08 8304 5132

writing: 124-130 South Terrace,  
Adelaide, SA 5000

email: [memberservices@viterra.com](mailto:memberservices@viterra.com)

Viterra will try to settle the complaint as soon as reasonably practicable and will notify the Applicant within five (5) business days of its response to the complaint. If the Applicant is dissatisfied with the response, the Applicant may refer the matter to the Financial Ombudsman Service.

17.6. The Applicant must pay:

17.6.1. any government taxes, fees, charges, registration costs or duties (including stamp duty) payable in respect of any transactions in connection with the Consignment Contract; and

17.6.2. any expenses Viterra incurs in enforcing, attempting to enforce or taking any advice or other action in connection with Viterra's rights under the Consignment Contract.

17.7. The Consignment Contract is governed by the laws of South Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts of South Australia.