



Kyvalley
Dairy GROUP
Australia's fresh milk family



A family
owned
Australian
business

Milk Supply Agreement

Organic

2023 / 2024



STATEMENT OF CIRCUMSTANCES

Kyvalley Dairy Group proudly supplies fresh organic dairy products to customers all over Australia and into Asia. We are an Australian owned family business, and our suppliers, existing and new, are part of our family. Without exception all organic milk supplied to Kyvalley Dairy Group must be sourced from a farm that carries Organic Producer Certification as determined by an Approved Organic Certifier.

In respect to our desired volumes 2023/2024 supply year, we are looking to match our suppliers' volumes closely to customer demand.

Kyvalley Dairy Group may, at any time, decline to enter into any new milk supply agreements once we have secured sufficient milk supply to service our customers.

Details of our milk price model and terms are set out in the Certified Organic Kyvalley Milk Supply Agreement and Supplier Handbook attached, both of which have been updated to ensure compliance with the new mandatory Dairy Code of Conduct introduced 1 January 2020 (the Code).

We value our relationships with our suppliers and are committed to helping them achieve the maximum benefits from our payment model by providing support on quality issues. We have a very experienced team of dairy professionals available to assist. If you are interested in supplying us for the coming season, we would love to talk to you.

For all enquiries regarding milk supply contact Nicole Wells Milk Supply Manager on 0417 748 473 or nicole.wells@kyvalleydairy.com.au alternatively Mike Leijen, General Manager of Milk Supply on 0447 785 821 or mike.leijen@kyvalleydairy.com.au.

This includes;

- For existing suppliers any queries, concerns or complaints regarding milk supply or milk payments
- For new supply any enquiries relating to supply including income estimates



Michelle Sonnenschein
CEO

Milk Supply Agreement - Organic

This Certified Organic Milk Supply Agreement is made this day of 2023 between:

Kyvalley Dairy Group Pty Ltd of 7 Slattery Road, Kyabram in the state of Victoria 3620 and

Name:

Physical Address:

(Supplier)

Postal Address:

ABN: Phone:

Email: Alt Phone:

We welcome you as a milk supplier to the Kyvalley Dairy Group Pty Ltd.

Recitals

This Certified Organic Milk Supply Agreement (MSA) consists of this document along with the Kyvalley Certified Organic Milk Supplier Handbook Annexure attached.

Definitions and Interpretation

The definitions and interpretations applying to this MSA are to be found in the Annexure attached.

Operative Part

MSA Nomination:

As provided for under the mandatory Competition and Consumer (Industry Codes—Dairy) Regulations 2019 (Cth) Dairy Industry Code (the Code), this MSA is a:

1. a non-exclusive supply agreement for the supply of Certified Organic Milk to Kyvalley Dairy Group,
- or
2. an exclusive supply agreement for the supply of Certified Organic Milk to Kyvalley Dairy Group,

(Supplier to nominate and tick the box whichever is applicable)

The Supplier may immediately terminate this Agreement without incurring any liability to Kyvalley Dairy Group by providing written notice to Kyvalley Dairy Group within 14 days from the day this MSA is entered into (Cooling off Period). This provision does not allow the Supplier to terminate this MSA in response to any variation of this MSA.

Subject to the Cooling Off Period, for the Term of this MSA, the Supplier agrees to supply Certified Organic Milk to Kyvalley Dairy Group and Kyvalley Dairy Group agrees to purchase Certified Organic Milk from the Supplier on the terms and conditions contained herein.

The Good Faith obligation (as defined) in the Code apply to this MSA. Kyvalley Dairy Group and the Supplier agree to act at all times in Good Faith in respect to their dealings under this MSA and hereby acknowledge that this is a requirement of the Code.

1. Exclusivity

This MSA may be non-exclusive or exclusive depending upon the nomination of the Supplier above. The differential pricing between the exclusive and non-exclusive supply arrangements nominated by the Supplier above are set out in the Kyvalley Dairy Group Minimum Milk Price schedule provided in clause 3 below.

If the Supplier nomination above deems that this MSA is to be an exclusive supply agreement, then as provided for under the Code:

- a. there will be no maximum amount of Certified Organic Milk that the Supplier must supply to the Kyvalley Dairy Group under this MSA; and
- b. no Tier Pricing shall apply.

2. Term

This MSA is applicable for the 12-month season commencing 1 July 2023 and ending 30 June 2024 (the Supply Year).

This MSA begins on the signing date and remain in force for the Supply Year. This MSA automatically terminates at the end of the Term unless terminated earlier as provided herein.

3. Minimum Pricing

The price to be paid to the Supplier for certified organic milk supplied to Kyvalley Dairy Group will be as provided for in line with Kyvalley Dairy Group's certified organic milk pricing and payment policies as amended from time-to-time, and may include step-ups, back-pays, bonuses, or otherwise, and, save that it will not be less than the Minimum Milk Price described herein, those amounts and terms shall otherwise be at Kyvalley Dairy Group's sole discretion.

Kyvalley Dairy Group's milk pricing is applicable for the 12-month season commencing 1 July and ending 30 June (the Supply Year).

Kyvalley Dairy Group Minimum Milk Price for the 2023-2024 Supply Year - Organic

KYVALLEY DAIRY GROUP MINIMUM PRICING TABLE	Exclusive Agreement for Certified Organic Milk	Non Exclusive Agreement for Certified Organic Milk
BASE MILK PRICE:		
Base Price (all months)	\$10.50/kg MS	\$9.50/kg MS
SEASONAL PAYMENTS:		
Monthly Seasonal Incentive		
July - August	\$0.00/kg MS	n/a
January - June	\$0.00/kg MS	n/a
All milk supplied MUST be completely free of Antibiotics. Any milk supplied which returns a positive result for antibiotics will not be paid for.		
Poor Bactoscan Greater than 150,000	\$0.30/kg MS	\$0.30/kg MS
Poor BMCC - greater than 350,000 cells/ml	\$0.60/kg MS	\$0.60/kg MS
Poor Thermoduric - between 1,000 and 2,000 cfu/ml	\$0.30/kg MS	\$0.30/kg MS
Bad Thermoduric – greater than 2,000 cfu/ml	\$0.60/kg MS	\$0.60/kg MS
DEDUCTIONS:		
Dairy Australia Levies	\$7.1299/kg fat & \$2.9263/kg pro	\$7.1299/kg fat & \$2.9263/kg pro
Dairy Food Safety Victoria	0.01667c/Litre	0.01667c/Litre

For full description and worked examples of each of the components of the Kyvalley milk payment model please refer to the Kyvalley Dairy Group Supplier Handbook.

3.1 General re Minimum Milk Price Policy

- 3.1.1 The amount you receive for your milk from the Certified Organic Minimum Milk Price will vary month to month throughout the Supply Year depending upon your particular milk supply curve, milk quality and butterfat/protein percentage. Please refer to the Kyvalley Supplier Handbook for further explanation and worked examples.
- 3.1.2 Kyvalley Dairy Group will provide an income estimate to all suppliers prior to the start of the payment year or prior to the commencement of supply. Further income estimates will be provided to suppliers upon request.
- 3.1.3 Milk Pricing is made up of a Base Milk price \$/kg milk solids (MS) plus adjustments up and down for seasonality, components and quality.

3.2 Organic Standards & Organic Milk Certification

Organic Standards mean the National Standard for Organic & Bio Dynamic produce as published by the Department of Agriculture & Water Resources.

Certification to Organic Standards as required by Kyvalley Dairy Group, means certification by an Approved Organic Certifier of the supplier for milk produced at the far.

The National Association for Sustainable Agriculture Australia Certified Organic (NCO), is responsible for the certification of organic farms in Australia. Without a current organic farm certification from NCO milk cannot be accepted under this agreement.

3.3 Volume Accuracy

- 3.3.1 Suppliers will be required to forecast a monthly milk supply at the beginning and the mid-point of each 12-month period (Season). For each 12-month period the supplier is required to provide a forecast of monthly supply volumes for the July to June supply period. In December of each year each supplier has the option to modify this forecast for the back half period January – June and this revised forecast will be used by Kyvalley to accurately match milk volume to sales demand

4. Statutory Levies

Dairy Australia and Dairy Food Safety Victoria or NSW Food Authority – Dairy levies shall be deducted from the Minimum Milk Price described in clause 3 and forwarded to the relevant authorities.

5. Milk Payment Basis

Kyvalley Dairy Group's Certified Organic Minimum Milk Price is based on a farm gate price and is GST exclusive (i.e.: GST is added to the price if applicable).

6. Payment

- 6.1 All Certified Organic Milk collected by Kyvalley Dairy Group will be paid for in line with Kyvalley Dairy Group's Minimum Milk Price by electronic transfer into an account nominated by the Supplier each month throughout the Supply Year.
- 6.2 Kyvalley Dairy Group will issue the Supplier with a Recipient Created Tax Invoice (RCTI) for the milk purchased during the period and pay the supplier the amount of the RCTI on the 15th of the month following each period, or where the 15th of the month is a public holiday or weekend milk payments will be made on the last business day prior to the 15th of the month.
- 6.3 Payments will be made into the following nominated bank account:

Bank: _____

Account Name: _____

BSB No: _____

Account No: _____

7. Quality and Raw Milk standards

- 7.1 The parties acknowledge that it is critical to the proper performance of this Agreement that the quality of Milk supplied hereunder be fit for human consumption and suitable for Kyvalley Dairy Group's purposes and as further described in the Supplier Handbook – Milk Quality Standards, in recognition of Kyvalley Dairy Group's Quality Requirements;
- a. The Supplier acknowledges that the price paid by Kyvalley Dairy Group for certified organic milk shall be reduced as a consequence of the Supplier's supply of milk failing to meet the Quality Requirements as determined by Kyvalley Dairy Group from time to time; and
 - b. Kyvalley Dairy Group undertakes to advise the Supplier in writing of any changes to Quality Requirements at least one month prior to implementing such changes and that its Quality Requirements in respect to the milk shall be generally in line with Australian Dairy Industry milk quality requirements for similar milk.
- 7.2 In the event that the Quality Requirements are not being and have continued to not be met by the Supplier on an ongoing and persistent basis, despite prior notifications and instructions by Kyvalley Dairy Group through its Quality Assurance System (refer Supplier Handbook) to the supplier demanding the rectification of these breaches, then Kyvalley Dairy Group may immediately terminate this Agreement by written notice to the Supplier.

- 7.3 The Supplier agrees to co-operate fully with Kyvalley Dairy Group on all matters relating to milk quality.

8. Milk Fat and Protein Standards (Components)

- 8.1 Kyvalley Dairy Group reserves to itself the right to test samples of milk supplied by the Supplier to Kyvalley Dairy Group to ascertain its quality, the milk fat and protein content, and any other tests that Kyvalley Dairy Group may require.
- 8.2 Milk components supplied are calculated on a monthly average. Minimum requirements for the percentage fat and protein components in the supplied milk apply.

9. Quality Standards

- 9.1. Enclosed in the Kyvalley Dairy Group Certified Organic Supplier Handbook are our Milk Supply Quality Assurance requirements. These recommended practices are provided to assist you as the Supplier to meet our high quality milk standards.
- 9.2. In accordance with Kyvalley Dairy Group's Quality Requirements, Quality tests will be conducted, and the results compared with the standards.
- 9.3. Test results are combined to form weighted monthly averages for comparison against the standards.
- 9.4. Where a failure to achieve the minimums specified in the schedule may result in deductions to the price paid for the month. These are outlined in the bonus and penalty section of this document.
- 9.5. Kyvalley Dairy Group is not required to collect any milk from the Supplier which does not meet Kyvalley Dairy Group's Quality Requirements of the applicable national, state and/or regulatory standards.
- 9.6. The Supplier must not adulterate, taint or contaminate any milk, or allow any person to do so.
- 9.7. The Supplier shall do all things and implement such policies and procedures including (without limit) risk management policies to ensure they comply with their obligations under this MSA and at law.

10. Milk Collection & Title

- 10.1 Kyvalley Dairy Group will arrange to pick up all your milk from your nominated dairy and transport it to our processing facility except in circumstances where contaminated milk is involved (refer to our Quality and General Policies in the Kyvalley Supplier Handbook annexed hereto).
- 10.2 Collections occurs once the milk is loaded into Kyvalley Dairy Group's own tanker or it's Agents tanker.
- 10.3 Title to the milk transfers to Kyvalley Dairy Group on collection.

10.4 The Supplier acknowledges the need for Kyvalley Dairy Group to obtain access to the Property at all times in order to perform to this MSA. Accordingly, the Supplier shall ensure that Kyvalley Dairy Group, its employees and agents, have free and unrestricted access to the Supplier's dairy and dairy farming property for the purposes of this MSA, including (without limit) for the purpose of collecting and testing the milk. For further details refer to the Kyvalley Dairy Group Supplier Handbook.

11. Levies and Charges

11.1 Statutory levies imposed by the relevant government departments will be deducted from the total milk payments. The rates are contained in the schedule and are subject to change from time to time.

11.1 Dairy Licence Fee is levied by Dairy Food Safety Victoria. All milk processors are required to pay Dairy Food Safety Victoria the Dairy Licence fees on behalf of their suppliers.

11.2 An "All Milk Levy" is levied by the Australian Government Department of Agriculture and Water Resources to fund Dairy Australia. The All Milk Levy is charged on fat and protein components in your milk.

12. GST

As raw milk is subject to Goods and Services Tax (GST), Kyvalley Dairy Group will pay the supplier the GST amount payable provided that it is registered for GST purposes.

General Policies

13. Milk Quantity and Quality Reports

13.1 Kyvalley Dairy Group will record the volume picked up and provide a report for each milk pickup to confirm the quantity and quality of milk collected. Some tests like the ThermoDuric's take 3 days to complete.

13.2 Component and quality tests are conducted by an internal laboratory on a sample collected at the farm each collection. On occasion Kyvalley may use an external laboratory which may delay some results.

13.3 Access to results and payments is available through our Kyvalley supplier portal. Training can be provided to use the portal via the app or desktop.

14. Sour or Tainted Milk

As the milk supplied to Kyvalley Dairy Group goes into drinking milk, milk taste is of vital importance. Sour tastes created by feed taints, contamination with detergents or through high microorganism counts may not be collected from the vat and will need to be disposed of by the supplier.

15. Milk Collection

Kyvalley Dairy Group, in conjunction with its haulage Agent, will arrange milk collection times. Collection times will be outside “normal” milking and normal vat cooling times to ensure the correct temperature of milk prior to pick up.

16. Milk Collection Access

The supplier must provide a suitable unrestricted all weather access to the dairy at all times to allow the collection of the milk and the access must be as free from mud and manure as possible.

17. Exceptional Circumstances

17.1 In the event of an extended power loss or refrigeration system failure, the supplier should contact Kyvalley Dairy Group as soon as possible to arrange for an urgent milk pickup.

17.2 Milk will only be collected if Kyvalley Dairy Group has been notified of the problem within 2 hours of the milk temperature exceeding 5°C.

17.3 Outside this time, the milk will be sampled and tested. Only if deemed suitable, will the milk be collected.

18. Reviews

18.1 Annual Review

- a. Prior to the end of each season, the parties will meet, and the supplier will provide planned volumes and components for each month of the next 12-month season.
- b. Kyvalley Dairy Group will review pricing and other terms and conditions taking into account market conditions before setting prices for the next season.

18.2 Mid-Season Review

To assist Suppliers in providing accurate volume forecasts, a mid-season review allows the opportunity for suppliers to update their volume figures for the last half of the season (January to June).

19. Farm Dairy Licence

A copy of your dairy licence is required to be provided prior to the commencement of this MSA for our records.

20. Advertisement

The Supplier must at all times be prepared to acknowledge that it is a Supplier of certified organic milk to Kyvalley Dairy Group and be prepared to display at its dairy entrance/gateway signage approved by Kyvalley Dairy Group advertising to that effect.

21. Termination

- 21.1 The Supplier may immediately terminate this MSA without incurring any liability to Kyvalley Dairy Group by providing written notice to Kyvalley Dairy Group within 14 days from the date of execution of this Agreement (Cooling Off Period). This clause 21.1 does not allow the Supplier to terminate this MSA in response to any variation of this MSA.
- 21.2 This MSA automatically terminates at the end of the Term unless terminated earlier:
- a. By the Supplier before the Cooling Off Period expires;
 - b. By mutual agreement;
 - c. By either party as a result of a force majeure event;
 - d. By either party for breach (unrectified) by the other party; or
 - e. By either party as a result of an insolvency event.
- 21.3 If the either party fails in the opinion of the other party to comply with its respective obligations in relation to this MSA it shall deliver to the non-complying party a written notice advising the that party of such failure and requiring the non-complying party to remedy this breach within a reasonable time, but not exceeding 30 days. Should the non-complying party fail to remedy the breach within the time specified in the notice, this MSA may thereupon, at the sole discretion of the complying party, be determined to be at an end.
- 21.4 If a party unilaterally terminates this MSA under clauses 21.1 or 21.2, then the terminating party must give to the other party as soon as practicable after it unilaterally terminates this MSA:
- 21.4.1 the termination; and
 - 21.4.2 written notice of:
 - i. the reason for the termination; and
 - ii. the day the termination takes effect.
- 21.5 This MSA will continue to apply to Milk supplied under it before the termination takes effect (including during a Cooling Off Period, or in response to a Unilateral Prospective Stepdown).

22. Effect of Termination

- 22.1 Termination of this MSA for any reason shall not affect the rights of the parties which accrued prior to such Termination. Such rights shall survive the Termination of this MSA.
- 22.2 In the event of Termination of this MSA all pre-payments in respect to the Flat Supply Bonus made to the Supplier must be repaid within 30 days of Termination and Kyvalley Dairy Group reserves the right to offset these advances against the Supplier's final milk payment.

23. Dispute Resolution Procedure

- 23.1 If a party to this MSA has a complaint or there is a Dispute in relation to a matter arising under or in connection with the MSA, the matter may be dealt with or resolved:
- a. in accordance with the Complaint Handling Procedure and clauses 23.7 to 23.11; or
 - b. by mediation as provided by the Code and replicated in the Supplier Handbook.
- 23.2 If the matter relates to the termination of this MSA, then a reference to a party to this MSA includes a reference to a person who was a party to the MSA before it was terminated.
- 23.3 The Processor must have a complaint handling officer to manage complaints in accordance with the Complaint Handling Procedure in Annexure 1.
- 23.4 The Supplier will provide Kyvalley Dairy Group with any information reasonably requested by Kyvalley Dairy Group to assist in complying with its dispute reporting obligations under section 56 of the Dairy Code.
- 23.5 The parties to a complaint or a Dispute about a matter arising under or in connection with this Agreement must observe the confidentiality requirements under clause 24. relating to information disclosed or obtained in dealing with or resolving the complaint or dispute.
- 23.6 This clause 23 adopts the procedures for mediation outlined in the Dairy Code to this MSA. To the extent there is any inconsistency between this MSA and the Code, then the Code prevails.
- 23.7 If a party wishes for a complaint in relation to a matter arising under or in connection with this MSA to be dealt with in accordance with the Complaint Handling Procedure, provided in clauses 23.7 to 23.11 herein, then the complaint must be dealt with in accordance with that procedure before the parties take action to resolve the complaint by mediation.
- 23.8 When a party wishes to have a matter dealt with in accordance with the Complaint Handling Procedure (Complainant), the Complainant must notify the other party to the MSA (Respondent) in writing of the following:
- a. the nature of the complaint;
 - b. that the Complainant wishes the complaint to be dealt with in accordance with the Complaint Handling Procedure provided in this Agreement; and
 - c. the outcome the Complainant wants (together, the Complaint Notice).
- 23.9 Within 5 working days after receiving the Complaint Notice, the Respondent must give a written acknowledgement to the Complainant stating:
- a. that the Complaint Notice has been received; and
 - b. the steps to be taken to deal with the complaint.

23.10 If the complaint is not resolved within 60 days after the acknowledgement was given to the Complainant under clause 23.9, either party may take action to have the complaint resolved by mediation

23.11 The Complainant may, at any time, withdraw the complaint by notice in writing to the Respondent.

24. Confidentiality

The Parties shall at all times keep strictly confidential the terms and conditions of this Agreement, and all matters relating thereto, including, but not limited to, information pertaining to:

- a. Kyvalley Dairy Group's commercial dealings;
- b. Kyvalley Dairy Group's milk supply;
- c. The arrangements relating to Kyvalley Dairy Group's supply to the a2 Milk Company.

25. Warranties

The Supplier warrants:

- a. that it is lawfully able to enter into this MSA;
- b. there are no contractual impediments to it entering into this MSA;
- c. the Supplier will own all milk to be supplied pursuant to this MSA; and
- d. that all representation, statements and written documents made or supplied by them to Kyvalley Dairy Group prior to entering into this MSA are true and accurate in all respects and not misleading.

26. Indemnity

The Supplier shall indemnify, and keep indemnified, Kyvalley Dairy Group against all claims, suits, demands, costs, expenses, liability or loss of any kind (including consequential loss) on account of any injury, death, damage or loss caused to, or sustained by, any person arising from the breach by the Supplier of their obligations under this MSA or at law including (without limit) laws relating to product liability and the Competition and Consumer Act 2010 (Cth). This indemnity shall not extend to acts or omissions of Kyvalley Dairy Group or its employees or agents.

27. Insurance

The Supplier shall take out and maintain at all times adequate insurance with a reputable insurer to cover all risks associated with this MSA.

28. Force Majeure

28.1 Party unable to carry out obligation

If a Party becomes unable, wholly or in part, to carry out an obligation placed on it by reason of a Force Majeure, then:

that Party must give the other Party prompt written notice of:

- a. the reasonable particulars of the Force Majeure;
- b. the probable extent to which that Party will be unable to perform its obligations or be delayed in performing its obligations; and

the relevant obligation, so far as it is affected by the Force Majeure, will be suspended during the continuation of the Force Majeure or 90 calendar days from commencement of the Force Majeure, whichever occurs the earlier.

28.2 Kyvalley Dairy Group can obtain milk from another supplier.

In the event of the Supplier being unable to comply with its obligations because of Force Majeure, Kyvalley Dairy Group shall be at liberty to obtain milk from another supplier during the period of Force Majeure.

28.3 Termination for Force Majeure

If a Party is affected by the Force Majeure for a period of more than 90 consecutive calendar days, the other Party may at its sole discretion terminate this MSA.

28.4 Definition

For the purposes of this clause, a "Force Majeure" affecting a Party means anything outside that Party's reasonable control including, but not limited to, fire, storm, flood, earthquake, explosion, war, invasion, rebellion, sabotage, epidemic, or an act or omission (including laws, regulations, disapprovals or failures to approve) of any third person (including, but not limited to, subcontractors, customers, governments or governmental agencies).

29. Relationship between the Parties

This Agreement will not be deemed to create a partnership, joint venture, employment or agency relationship of any kind between Kyvalley Dairy Group and the Supplier.

30. Notices

30.1 Method

Any notice, consent, approval, demand, request, offer or other communication (each a "Notice") given by a party under this Agreement must be:

- a. In writing;
- b. Directed to the recipient's address; and
- c. Hand delivered, sent by pre-paid mail or transmitted by email or facsimile to that address or as otherwise agreed by the Parties.

30.2 Receipt

A Notice given in accordance with this clause is taken to having been given and received:

- a. If hand delivered, on the day of delivery if a business day or otherwise on the next Business Day; or
- b. If sent by pre-paid mail, on the second Business Day after the date of posting; and
- c. If transmitted by email on the day of transmission if a Business Day or otherwise on the next Business Day.

31. General

31.1 Accrued rights

Termination or expiry of this document for any reason does not affect the accrued rights of the parties under it.

31.2 Transfer

A party may not assign, encumber, novate or otherwise dispose of any benefit or obligation under this document without the consent of the other party (such consent not to be unreasonably withheld). Any consent (other than by a novation) will not relieve a party from liability for the performance of any obligations, responsibilities or duties under this document.

31.3 Entire agreement

This document embodies the entire agreement between the parties in respect of its subject matter and supersedes all previous agreements, communications and understandings, whether oral or written, between the parties.

31.4 Exercise of rights

A party may exercise a right or a remedy, or give or withhold a consent, waiver or approval, in its absolute discretion (including by imposing conditions), unless this document expressly provides otherwise.

31.5 Further acts

Each party must, at its own expense, do all things (including the execution and delivery of documents) required by law or reasonably requested by another party to give effect to this document and the transactions contemplated by it.

31.6 Severance

If a provision of this document would, but for this clause 31.6, be void, unenforceable or illegal in a jurisdiction:

- a. the provision is read down to the extent necessary to avoid that result; and
- b. if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this document. This clause 31.6 has no effect if its operation alters the basic nature of this document or is contrary to public policy.

31.7 Time is of the essence

The parties acknowledge that time is of the essence in relation to the payment of the Price and Delivery of Products under this document.

31.8 Variation

This document can only be varied by a document signed by all of the parties, and:

- a. All variations made under this Agreement must comply with the Dairy Code and must be in writing. If provisions of a variation are noncompliant with the Dairy Code, those provisions shall be severed from the variation, to the extent of the noncompliance, and the validity, existence, legality and enforceability of the remaining provisions will not in this Agreement any way be affected, prejudiced or impaired;
- b. The Minimum Milk Price shall not be varied except to increase the Minimum Milk Price by agreement; and
- c. Retrospective Step-downs are not permitted.
- d. If there is a change in a Commonwealth, State or Territory law, then Kyvalley Dairy Group may unilaterally vary this MSA:
 - e. only to the extent necessary to comply with the changed law; and
 - f. without reducing the Minimum Price.
- g. If Kyvalley Dairy Group unilaterally varies this Agreement, Kyvalley Dairy Group must as soon as practicable after the variation provide the Supplier with:
 - i. the variation; and
 - ii. written notice of:
 - a. the reason for the variation; and
 - b. the day the variation takes effect.

31.9 Unilateral Prospective Stepdown

1. The Processor must not implement a Unilateral Prospective Stepdown unless in accordance with the Code.
2. Without limiting clause 31.9.1, the Processor must only implement a Unilateral Prospective Stepdown in Exceptional Circumstances and in accordance with the Code.

31.10 Waiver

A party is only bound by a waiver that it gives or confirms in writing. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No

other conduct of a party (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.

32 Counterparts and execution

32.1 Counterparts

This document may be executed in counterparts which together constitute one instrument but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by facsimile, email or other electronic means.

32.2 Authority of signatory

Each person, who executes this document on behalf of a party under a power of attorney or other authority, declares and warrants that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that authority.

33. Records

33.1 The parties must keep originals or copies of:

- a. this MSA; and
- b. any variations to or termination of this MSA; and
- c. any notices or statements issued under this MSA or the Code,

for the period set out in clause 33.2 below.

33.2 A record, or a copy of a record, must be kept for the period:

- a. starting on the day on which the record is made or given; and
- b. ending on the last day of the 6 years beginning on the day this Agreement ends.

34. Governing Law

This Agreement will be governed by and construed in accordance with the laws in force in the State of Victoria. The parties submit to the non-exclusive jurisdiction of the courts of that state and any appeals to them.

35. Further Provisions

The further provisions set out in the Annexure (Kyvalley Dairy Group Supplier Handbook) apply to this MSA.

EXECUTION PAGE

Signed for and on behalf of Kyvalley Dairy Group Pty Ltd:

Executed for and on behalf of Kyvalley Dairy Group Pty Ltd in accordance with section 127 of the Corporations Act 2001 (Cth) by:

 GM Milk Supply signature

 GM Milk Supply full name
 (BLOCK LETTERS)

Signed for and on behalf of the Supplier:

Where the Supplier is an individual, use the following execution block:
 Signed, sealed and delivered as a deed poll by the Supplier in the presence of:

 Supplier signature

 Witness signature

 Supplier full name
 (BLOCK LETTERS)

 Witness full name
 (BLOCK LETTERS)

 Supplier signature

 Witness signature

 Supplier full name
 (BLOCK LETTERS)

 Witness full name
 (BLOCK LETTERS)

Where the Supplier is a company, use the following execution block:
Executed for and on behalf of the Supplier in accordance with section 127 of the Corporations Act 2001 (Cth) by:

Director signature

Director/Secretary signature

Director full name
(BLOCK LETTERS)

Director/Secretary full name
(BLOCK LETTERS)

SHARE FARMING AGREEMENT

Kyvalley Dairy Group Pty. Ltd. (Kyvalley Dairy Group) makes this agreement with the "Supplier" to split the payment it makes for milk purchased each month from the "Supplier" with the "Sharefarmer" according to the following terms.

The Supplier requests and authorises Kyvalley Dairy Group to split the net milk payments and applicable levies and charges payable, known as the Net Revenue (including GST) line of the Recipient Created Tax Invoice (RCTI) according to the following share formula:

Supplier Split:%
 Shareholder Split:%
 Total: 100 %

The Supplier further requests and Kyvalley Dairy Group agrees to:

1. Make two payments and issue two RCTI Milk Statements for milk purchased each month; the first to the Supplier for their share of the milk supplied and the second to the Sharefarmer for their share of the milk supplied.
2. Share a copy of the Milk Volumes and Quality Reports and any other correspondence the Supplier receives with the Shareholder

Supplier Details:

Name of Supplier:

Address of Supplier:

Supplier ABN as provided on page 4 of MSA.

Bank Details as provided on page 8 of MSA.

Supplier signature

Date

Supplier full name
(BLOCK LETTERS)

Sharefarmer Details:

Name of Sharefarmer:

Postal address of Sharefarmer:
.....

Sharefarmer ABN:

Bank Name: Account Name:

Bank BSB: Account No:

Sharefarmer signature/s

Date

Sharefarmer full name/s
(BLOCK LETTERS)

Executed for and on behalf of Kyvalley Dairy Group Pty Ltd in accordance with section 127 of the Corporations Act 2001 (Cth) by:

GM Milk Supply signature

GM Milk Supply full name
(BLOCK LETTERS)



**Kyvalley
Dairy** GROUP
Australia's fresh milk family



A family
owned
Australian
business



Supplier Handbook 2023 / 2024

SECTION ONE – Supplier Services and Support

Kyvalley Dairy Group is committed to providing support to suppliers specifically for issues relating to;

- Understanding the Kyvalley Dairy Group milk payment system;
- the impact your milk supply profile has on your forecast milk income;
- assisting suppliers to meet the requirements of the Kyvalley Dairy Group milk quality system and quality assurance audits; and
- working actively with suppliers to manage our high milk quality standards, by providing on farm support, milk testing and plant inspections.



Milk Results

Kyvalley Dairy Group uses the Madcap system to manage all supplier's data relating to milk litres and components, quality results and income statements. Madcap provides suppliers with instant access to this important information via a smart phone app and web portal including:

- latest milk production and quality data;
- historical production data;
- income estimate tools;
- access to farm statements; and
- supplier news.

Information via the phone app can be shared with all key stakeholders across the business including staff members and advisors.

You can access the Madcap supplier portal at <https://kyvalley.contecgroup.co.nz/>



Milk Payments

Suppliers monthly milk payments are paid into supplier nominated bank account(s) on the 15th of the following month.

Where the 15th falls on a weekend or a public holiday, milk payments will be made on the last business day prior to the 15th.

SECTION TWO – Milk Quality Standards



Milk Quality Compliance and Organic Certification

All Certified Organic milk supplied to Kyvalley Dairy Group must comply with our quality assurance program and be produced on a farm and from a dairy herd that carries the Organic Producer Certification. The National Association for Sustainable Agriculture Australia Certified Organic, the fully owned subsidiary of the National Association for Sustainable Agriculture Association is responsible for the certification of organic farms in Australia. Without a current organic farm certification from the NCO milk cannot be accepted under this agreement.

Minimum Standards to be met for milk collection

In addition to carrying Organic Certification, for milk to be collected by Kyvalley Dairy Group or our designated contractor the milk must meet the minimum standards for collection. Our milk collection contractors are obliged to follow the conditions listed below in the Table below:

QUALITY PARAMETER	MINIMUM STANDARDS FOR MILK COLLECTION
Milk presented for collection must be free of antibiotics (<0.0015 µg/ml)	<p>It is the responsibility of the supplier to ensure all milk supplied is free of antibiotics</p> <p>If the supplier suspects a contamination and notifies Kyvalley Dairy Group before pickup, a sample can be tested and if confirmed positive, the milk will not be collected.</p> <p>If the milk is collected and confirmed positive, the supplier will be held responsible for all costs involved in disposal of their milk and any other milk which may have been contaminated in the pickup tanker</p> <p>Kyvalley Dairy Group will not pay for any milk that cannot be collected due to antibiotic contamination</p>
Milk presented for collection must be free of Inhibitory Substances - Iodine (<40 ug/100g) - QACs (>0.01 mg/kg)	<p>All milk must be free of inhibitory substances such as (but not limited to) Iodine, Quaternary Ammonium Compounds (QACs), Nonylphenol Ethoxylates (NPEs) and iodine.</p>
Milk found to be >5 deg C at pickup time will not normally be picked up	<p>It is the responsibility of the supplier to ensure milk has been cooled to less than 5.0 deg C within 2.4 hours from the completion of milking.</p> <p>Milk temperature will be measured and recorded according to the milk vat temperature gauge which is then checked against the milk tankers inflow temperature gauge. It is the supplier's responsibility to ensure the vat(s) thermometer is working and accurate.</p> <p>If milk is collected inside 2.4 hours from the completion of milking it must meet the requirements of the cooling envelope and be on track to be</p>

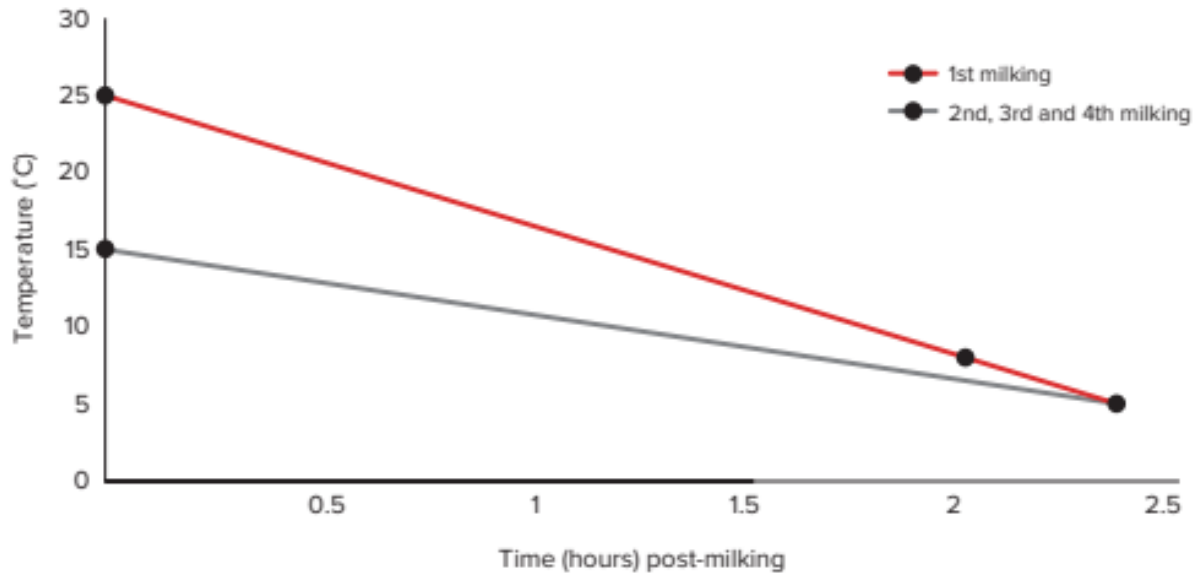
	<p>cooled to <5.0 deg C within 2.4 hours of the completion of milking (see Graph 1 below).</p> <p>Milk that has not met these temperature guidelines may be collected but only at the discretion of Kyvalley Dairy Group.</p> <p>In the event of vat cooling failure or power outages that could cause milk not to be cooled to the acceptable standards, please contact Kyvalley Dairy Group immediately to arrange (where possible) for milk to be promptly collected for factory cooling.</p>
Milk presented for collection must pass the tanker drivers Sensory Test	<p>Kyvalley Dairy Group reserves the right not to collect milk which is deemed to fail the sensory test. Some examples: contains visible extraneous matter, discolouration or unacceptable odour.</p> <p>Milk must not be tainted or sour. A sensory test is conducted by the tanker driver on each vat load of milk before pumping commences. All tanker drivers are instructed to report any milk that they consider may fail the sensory test to Kyvalley Dairy Group before collection commences. The vat of milk will then be inspected by Kyvalley Dairy Group and on that assessment, any vat which fails the sensory test will be rejected by Kyvalley Dairy Group.</p> <p>Disposal (including any associated costs) of rejected milk is the responsibility of the supplier.</p>
Colostrum	<p>Milk for collection must be free of colostrum.</p> <p>Calf milk or any other milk that is unsuitable for collection must not be stored in the milk vat, milk room/storage area and must be clearly labelled.</p>
Freezing Point	<p>All milk collected must be capable of passing the industry standard Freezing Point test.</p>



Temperature

Milk cooling is a critical component in maintaining milk quality standards. To comply with food safety regulation, dairy farm license and export market requirements, milk must be cooled to 5°C or less within 2 hours and 20 minutes from the completion of milking.

Graph 1: Milk Cooling Envelope



Colostrum

Colostrum can interfere with some manufacturing processes. Milk from cows and heifers must not enter the vat until at least eight milking's after calving. Kyvalley Dairy Group may test for colostrum on a random basis across the year (particularly during calving periods). If colostrum indicators are detected in a milk sample, Kyvalley Dairy Group may temporarily suspend collection. Milk that is unsuitable for collection must not be stored in the milk vat, milk room or other milk storage area and must be clearly labelled.

Sediment and Freezing point

Kyvalley Dairy Group may test for both sediment and freezing point at times throughout the year to ensure customer requirements are met.

- Freezing point – normal quality milk should freeze at minus 0.517°C or below. The freezing point test detects the presence of excessive water in the milk.
- Sediment – extraneous matter in milk such as cow hair, dirt, manure, dust, vegetable matter and insects. Bacteria accompany sediment into the milk, resulting in contamination.

Milk Quality Results

Milk quality data is typically available to the supplier on the same day that the result is recorded. Depending on the test this will range from the day of collection to the required 3 days of incubation. Results will be available via the Kyvalley Dairy Group Madcap phone app or via the Madcap web portal located on the Kyvalley Dairy Group supplier web page.

Quality Milk Commitment

Kyvalley Dairy Group aims to have 100% of farm milk meet all its highest quality standards. To assist suppliers in achieving these results milk, Kyvalley Dairy Group's team of milk quality professionals will provide the following services to assist with solving farm milk quality issues;

- Daily milk testing for all quality parameters
- Communication of results as soon as they become available via Madcap phone app and web portal
- Testing of wash water for correct chemical strength
- Wash water quality testing
- In line sampling points to pinpoint the source of quality problems
- Plant inspections including the use of a cable camera for in depth plant inspections
- Analysis and interpretation of results

SECTION THREE – Milk Payment System

Kyvalley Dairy Group can provide suppliers with an income estimate and full explanation of the milk payment model at any time.

Milk pricing

Kyvalley Dairy Group, in accordance with the Dairy Industry Mandatory Code of Conduct will provide full details to suppliers of the milk pricing model for the upcoming financial year by 1st June. Our certified organic farmgate milk price is determined through a combination of the following components:

- Monthly milk supply and seasonality of supply;
- Milk quality bonuses and penalties designed to encourage and reward milk of the highest standards.

Milk Price Reviews

To assist with supplier's cash flow, Kyvalley Dairy Group aims to provide the full years milk pricing from the beginning of the payment year. Kyvalley Dairy Group monitors market conditions throughout the year to ensure it is meeting its commitment to pay a premium price for flat year round quality milk supply.

Milk Payment Model

The Kyvalley Dairy Group Certified Organic Milk Payment Model is provided in the Minimum Pricing Table on Page 5.

The following explanatory notes and worked examples apply to the payment model.

- a. **Monthly Seasonal Milk Incentive** – Kyvalley Dairy Group acknowledges that for some periods of the year, milk is more expensive and difficult to produce than at other times. Also, the cost of production during these challenging periods is highly dependent on the cost of key inputs such as irrigation water and purchased feed. The Monthly Seasonal Milk Incentive is aimed at better rewarding suppliers for milk produced in these periods.

From milk samples taken from each supplier's vat(s) Kyvalley Dairy Group tests, assesses and grades milk quality in accordance with the minimum milk pricing table above.

Kyvalley Dairy Group tests all quality parameters daily. Milk bonus and penalty payments are calculated monthly based on the average daily result for milk received.

Where milk is collected from more than one vat or more than one pick up, the weighted average result will apply for that day.

SECTION FOUR – Charges and Levies



Statutory and other Levies

Dairy Australia levy

A mandatory Dairy Services Levy is automatically deducted on the supplier's behalf from milk proceeds and paid to Dairy Australia. To find out more about this levy please visit the Dairy Australia website:

www.dairyaustralia.com.au

State dairy levy

Each state-based regulatory authority has its own levy or licence requirements which will be automatically deducted from milk proceeds on the supplier's behalf. For more information, please refer to your state-based dairy/food authority.

Victoria

www.dairysafe.vic.gov.au

New South Wales

www.foodauthority.nsw.gov.au

SECTION FIVE – Food Safety and Quality Assurance



Food Safety Program

Kyvalley Dairy Group suppliers are required to comply with the requirements outlined in the True Quality Dairy Farm Food Safety Program.

As a producer of fresh milk and cream, Kyvalley Dairy Group is committed to ensuring our products meet the highest standards of quality and food safety standards demanded by our customers, consumers and regulators.

Kyvalley Dairy Group's True Quality Dairy Farm Food Safety Program is designed to identify and control potential milk quality risks and ensure compliance with the relevant food safety regulations.

The key elements of the Kyvalley Dairy Group Quality Assurance Program are to ensure:

- No risk of physical, chemical or microbiological contaminants
- Clean and safe dairy milking premises
- Hygienic milking plant and vat
- Milk cooling systems that cool milk in the required time
- Sufficient quantity and quality of water supply required to maintain a clean dairy, milk plant and vat
- Cleaning and sanitising
- Traceability and records
- Personnel competency
- Control of residues in milk
- Minimum animal health and welfare industry standards are maintained

Kyvalley Dairy Group suppliers are required to fill in, sign and return;

- Commitment to Quality
- Statement of Compliance

These documents are attached in the Farm Quality Commitment; refer Schedule 3.



On-farm audits

As a condition of milk supply to Kyvalley Dairy Group, all dairy farmers must be licensed or accredited with their State Regulatory Authority. To ensure compliance with the system and effective implementation, regular (at least biennial) audits of suppliers against the requirements will be conducted.



Animal welfare

Kyvalley Dairy Group expects suppliers to comply with the Australian Animal Welfare Standards and Guidelines for Cattle, including the implementation of appropriate Animal Care Awareness and Training programs. In particular the Kyvalley Dairy Group Animal Welfare Policy requires compliance with the following;

- the phasing out of calving inductions in line with the Australian Dairy Industry Council policy and guidelines;
- the banning of the practice of tail docking; and
- administering of pain relief for animal husbandry practices that are likely to cause pain such as dehorning or disbudding cattle.

SECTION SIX – Milk Collection and On Farm Requirements



Farm track and dairy access

Kyvalley Dairy Group is committed across the entire business to ensuring full compliance with Worksafe requirements for all staff and contractors. This includes Kyvalley Dairy Group's farm milk collection with requirements designed to facilitate safe and efficient farm access for Kyvalley Dairy Group contractors and staff involved with the collection of milk and provision of farm services.



Requirements for tanker access

To ensure the safe entry and exit for milk tankers, the following minimum standards for milk tanker access are required:

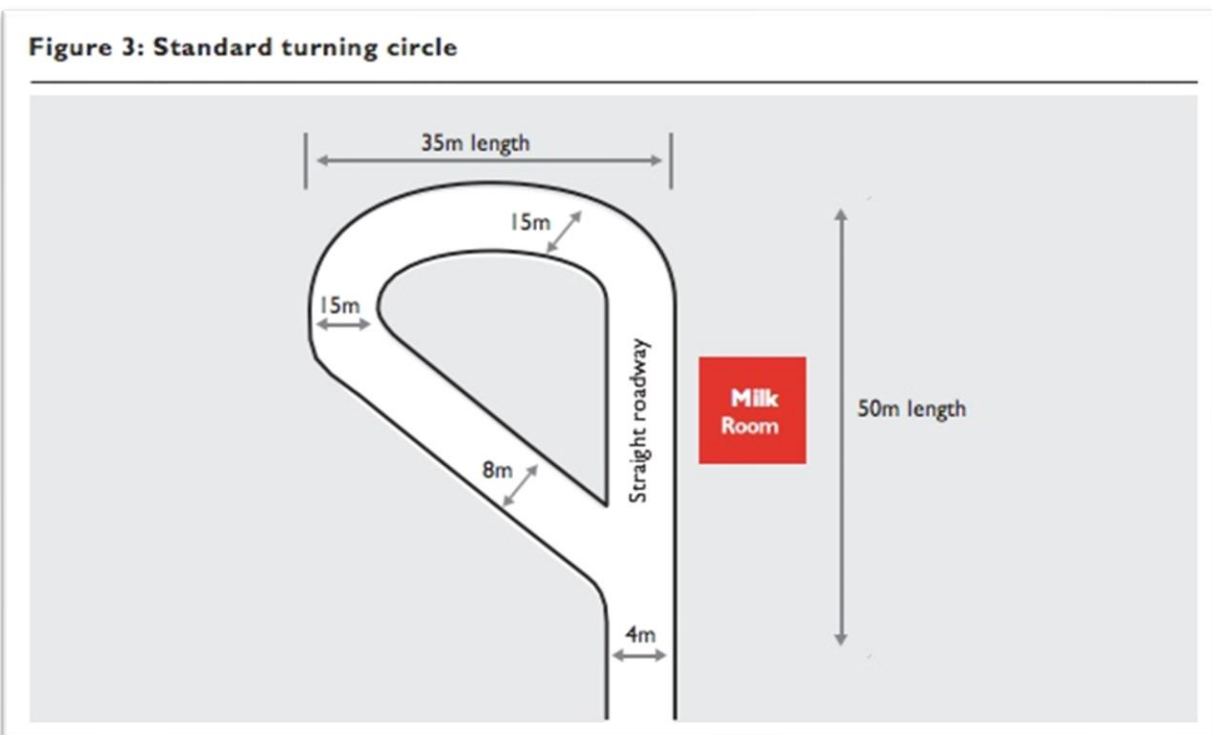
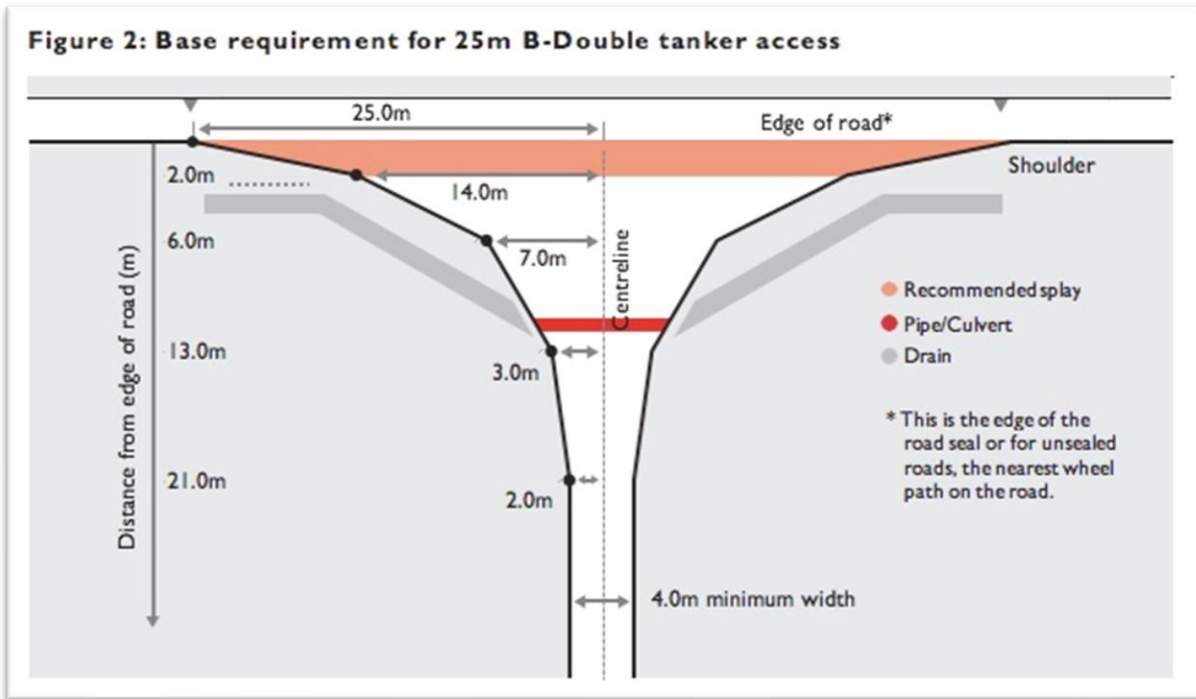
- the sign provided by Kyvalley Dairy Group detailing supplier name and number is displayed in a prominent position that is clearly visible from the road;
- a maintained, splayed entrance that complies with the requirements of local and state authorities. This must allow the tanker to enter the property without having to cross the centre of the roadway when approaching from the left side of the entrance;
- clear access on the track and turnaround from the roadway to the dairy;
- gateways leading to the track are at least 26 metres from the edge of the roadway ensuring a tanker combination is clear of the roadway;
- a track surface suitable for all weather conditions with cattle crossings kept clean;
- a track with no sharp corners requiring multi point turns;
- a track that is free of potholes and debris that allows the tanker to proceed at 10-20 km/h without causing damage to the milk tanker and/or harm to the tanker driver;
- tree and shrubs are maintained so that tanker drivers can maintain a clear view while travelling on the tanker access track and are able to safely exit the property with clear vision; and
- tracks and locations designed to ensure tankers do not have to reverse off or onto a public road.



Access track design

Kyvalley Dairy Group encourages all farms to have a multi-directional entrance to their property allowing safe access to and from the farm and wherever possible comply with state

and local authority requirements regarding access to public roads. Figure 2, overleaf, illustrates the base requirements for tanker access.





Standard turning circle

Kyvalley Dairy Group recommends all farms have a standard turning circle (see Figure 3, previous page) to allow safe and efficient traffic flow on-farm.

- Where farm topography will not allow for a full turning circle, Kyvalley Dairy Group recommends that the extent to which a tanker combination needs to reverse is kept to a minimum. The area to be reversed into must also be kept clear at all times.
- When designing a turn around, Kyvalley Dairy Group recommends as much room, as is practicably possible, is made available for the turn around.
- Any items stored on the centre island should not protrude onto the track. Tractors, bikes and implements should be parked well clear of the designated track at all times to protect assets.
- Wherever possible, interaction between people and vehicles should be restricted by physical barriers or fences and clearly designated with signed walkways.
- Tree canopies and shrubs should be trimmed or removed to allow clear vision of buildings, other traffic or pedestrians that may occupy this space.

Private bridges

Kyvalley Dairy Group requires that all private bridges that are traversed during milk collection must meet minimum compliance standards. Kyvalley Dairy Group reserve the right to request engineering assessments and/or improvements to be undertaken on the construction of the bridge to ensure safe milk collection.

Where a new bridge is to be constructed, the farm owner must engage a qualified engineer to assess the proposed works and provide a compliance certificate of construction, including weight ratings and an ongoing maintenance plan for the construction.

Construction or alterations to tanker access tracks and vat rooms

Prior to any work commencing work which will impact on tanker access and/or milk collection, suppliers are advised to engage with Kyvalley Dairy Group prior to ensure all safety scenarios are considered.

Power lines

In areas where Kyvalley Dairy Group representatives are required to work under, or park tankers near, overhead power lines, all reasonable steps must be taken to ensure a safe work environment around the power lines. In particular, power lines must meet all required regulations, including the following:

- in Victoria, the Electricity Safety (Installations) Regulations 2009
- in New South Wales, the Code of Practice Electricity transmission and distribution asset management

Suppliers must ensure warning signs are fitted to all overhead power lines which cross where the tanker combination will be operating.



Vat room requirements

Kyvalley Dairy Group requires that suppliers provide a safe environment for the contractors and employees involved with the collection of milk. This includes safe and easy access to vat rooms/milk storage areas. To assist in this process, the following guidelines apply:

- The milk tanker can be parked safely and require no more than six metres of milk collection hose;
- the tanker parking area and access to the vat room must be clear of all obstacles, trip hazards and slippery walking surfaces;
- sufficient area for the tanker operator is provided so that the tanker hose can be safely maneuvered from the vehicle to the vat outlet;
- access from the tanker to the milk storage area that is free of slip, trip or fall hazards;
- an unobstructed doorway to the vat room that meets or exceeds the relevant Australian Standard for doorway design;
- no vat outlet (including where there are multiple vats) shall be more than three metres from the vat room door and all vats will have a suitable three-inch (76mm) BSM fitting;
- no Kyvalley Dairy Group staff or contractors will be exposed to dogs while they are on site;
- the vat room must have;
 - an unobstructed work area within the vat room where tasks can be safely performed;
 - correctly maintained waterproof switches in and around the vat room;
 - light switch(es) placed immediately inside and/or outside the tanker operator entry door;
 - where sensor lights are installed as an alternative to a waterproof light switch, lights that do not impair the tanker operator's vision when reversing;
 - sufficient lighting to allow safe access in and around the vat room;
 - vat controls with clear instructions, including wash procedures and/or farm specific requirements positioned in an open space for ease of access and operation;
 - a vat rinse hose that is clean and suitable for the task; and
 - where a landing or platform is required to be used, fall protection must be installed to meet or exceed the relevant standards.
- The vat room must not;
 - have any milk stored in buckets;
 - have any milked stored not for collection (eg calf milk); and
 - be used to store chemicals other than cleaning chemicals used in clean the milk plant and vat.

Vat room asbestos control measures

Where dairies have been, or are suspected of being, fabricated from materials containing asbestos the farm owner/manager must:

- notify Kyvalley Dairy Group of such materials within the vat room;
- report to Kyvalley Dairy Group any damaged or broken asbestos so that a risk assessment can be conducted prior to any further milk collection; and
- affix appropriate warning labels to identified or suspected materials which are undamaged and are to remain within the dairy's construction.

See example of an approved label.



Serious Safety Issues Resolution

Where a serious safety hazard has been identified and it has the potential to cause serious injury and cannot be effectively controlled, Kyvalley Dairy Group will work with the supplier in good faith to ensure the necessary precautions and actions are taken.

If a serious safety hazard has been identified and a suitable solution cannot be agreed upon, Kyvalley Dairy Group may choose to cease collection until a suitable control measure has been agreed and implemented. We take safety seriously.

SECTION SEVEN – Forecasted Milk Supply & Milking Information

Suppliers will be required to forecast a monthly milk supply at the beginning and the mid point of each 12-month period (Season). For each 12-month period the supplier is required to provide a forecast of monthly supply volumes for the July to June supply period..

- a. The Forecast Production Form is attached in Section 8, Schedule 1.
- b. To assist Kyvalley Dairy Group in planning milk collection and annual milk supply, suppliers are asked to complete and return a Vat Capacity and Milking Information Form. The form is attached in Section 8, Schedule 2.

SECTION EIGHT – Schedules

Schedule 1:

Forecasted Production Form

Month	Litres	Fat Test % or kg	Protein Test % or kg
July			
August			
September			
October			
November			
December			
January			
February			
March			
April			
May			
June			
TOTAL			

Schedule 2:

Vat Capacity and Milking Information Form

Milking times	Start	Finish
Morning	_____	_____
Evening	_____	_____

Time milk reaches 5 degrees

Morning _____

Evening _____

B-double access: YES NO

Vat capacity (litres): Vat 1: Vat 2: Total: _____

Time to wash vat (minutes) _____

Herd size (no. of cows) _____

Calving date/s: _____ % of herd calving

Calving date/s: _____ % of herd calving

Calving date/s: _____ % of herd calving

Nominated pickup issues: _____

Dairy Address: _____

Dairy Licence Number: _____

Schedule 3:

Farm Quality Commitment

Kyvalley Dairy Group has a responsibility to consumers to ensure that our product is of the highest quality. We seek to obtain whole milk from our suppliers of consistently high quality in order to deliver this.

The objective of the Kyvalley Dairy Group Farm Quality Commitment is to create an environment in which:

- Consumers are confident of the quality of milk produced.
- Public perception of dairy farming in general is enhanced.
- The long term competitiveness of producers and processors is safeguarded.
- Environmental impact and animal welfare are considered as priorities.
- Actual standards on the farm are monitored, documented and improved.

Milk Quality Specifications

Parameter	Specification	Penalty
BMCC	<350,000	>350,000
Temperature °C	<5 °C	
Antibiotic µg/ml	<0.0015	>0.0015 Reject
Thermoturic cfu/ml	<1500	>1500
Bactoscan	<150,000	>150,000
Standard Plate Count cfu/ml	<15,000	
Coliforms cfu/ml	<100	

To meet the requirements to export to the European Union (E.U.), raw milk supplied must meet the following parameters:

Milk Parameter	Geometric Rolling Average
Standard Plate Count cfu/ml	<100,000 two monthly
BMCC cells/ml	<400,000 three monthly

COMMITMENT TO QUALITY & STATEMENT OF COMPLIANCE

We commit to supply quality milk to

Kyvalley Dairy Group

Our objective is to produce milk of consistently high quality.

This objective will be attained by eliminating all controllable risks through proactive and preventative management of our business.

Our objective is to produce milk that is free from prohibited substances.

All deliveries of feed are accompanied by a compliance certificate to meet our quality management system.

We are committed to the production of a quality product and accordingly undertake to maintain a quality management system that meets the dairy licence requirements and the requirements set out in the Farm Quality Commitment, so as to ensure the milk produced by us is of the highest possible standard and quality.

SIGNED:

By an authorised signatory for the Farm

DATE:

NAME:

TRADING NAME:

ADDRESS:

.....

FARM No: DAIRY LICENCE No:.....

SECTION NINE – Definition & Interpretation of Terms

1. Definitions and Interpretations

1.1. Definitions

Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.

Disputes Handling Procedure means the procedure set out in this Kyvalley Dairy Group Supplier Handbook.

Cooling Off Period is defined in clause 11.1.

Dairy Code means the *Competition and Consumer (Industry Codes – Dairy) Regulations 2019* (Cth), as updated from time to time.

Dispute means a dispute between the parties to this MSA in relation to a matter arising under or in connection with this MSA.

Exceptional Circumstances has the same meaning as in section 28 of the Dairy Code, namely circumstances that:

- (a) are temporary; and
- (b) involve an extraordinary event (including an emergency or change in market conditions) that:
 - (i) occurs outside of Australia; and
 - (ii) has a highly significant effect on supply, demand or costs in the dairy industry; and
 - (iii) is not caused by decisions made by processors.

Exclusive Supply Agreement means an agreement between the Farmer and the Processor that prohibits the Farmer from supplying milk to another Processor.

Good Faith means good faith within the meaning of the unwritten law as in force from time to time, in relation to the supply of Milk and, without limitation, the factors set out as follows may be taken into account:

- (a) Without limitation, Good Faith applies in relation to the following:
 - (i) negotiating and entering into this MSA;
 - (ii) exercising rights, or performing obligations, under this MSA;
 - (iii) dealing with or resolving complaints or disputes arising under or in connection with this MSA; and
 - (iv) varying or terminating this MSA.
- (b) Without limitation, in determining whether Kyvalley Dairy Group or the Supplier (first party) has acted in Good Faith in dealing with the Kyvalley Dairy Group or the Supplier (other party), the following may be taken into account:
 - (i) whether the first party has acted honestly;
 - (ii) whether the first party has tried to cooperate with the other party to achieve the purposes of this Agreement;
 - (iii) whether the first party has not acted arbitrarily, capriciously, unreasonably, recklessly or with ulterior motives;
 - (iv) whether the first party has not acted in a way that constitutes retribution against the other party for past complaints and disputes;
 - (v) whether the first party's relationship with the other party has been conducted without duress;
 - (vi) whether the first party's relationship with the other party has been conducted in recognition of the need for certainty regarding the risks and costs of supplying or purchasing Milk;
 - (vii) whether the first party has undermined, or denied the other party, a benefit of this Agreement;
 - (viii) whether the first party has observed any confidentiality requirements relating to information disclosed or obtained in dealing with or resolving a complaint or dispute with the other party; and
 - (ix) whether, in dealing with the first party, the other party has acted in good faith.

Milk means unprocessed raw milk (within the meaning of the *Dairy Produce Act 1986* (Cth)).

Minimum Price means the lowest price payable, for a period, under this Agreement for Milk supplied during that period, disregarding:

- (a) Loyalty Payments; and
- (b) any possibility of a Unilateral Prospective Stepdown; and
- (c) any fees payable by the Farmer under this Agreement.

Retrospective Stepdown is a variation of this Agreement that reduces a Minimum Price for Milk supplied under this Agreement before the variation occurs.

Specifications means the quality and milk supply specifications as set out this Kyvalley Dairy Group Supplier Handbook.

Term as defined in clause 2.

Tier Pricing means the Minimum Price payable for a specified amount of Milk supplied during a period is greater than the Minimum Price for Milk supplied in excess of the specified amount.

Unilateral Prospective Stepdown means a unilateral variation of this Agreement by the Processor that reduces the Minimum Price for Milk supplied under the Agreement after the variation occurs.

Kyvalley Dairy Group must only implement a Unilateral Prospective Stepdown in Exceptional Circumstances if:

- the Unilateral Prospective Stepdown does not reduce a Minimum Milk Price for Milk supplied after the expected end of the Exceptional Circumstances; and
- the following requirements are satisfied:

either:

 - i. the Processor has taken or will take all reasonable steps to prevent or limit the impact of the Exceptional Circumstances on the Processor; or
 - ii. there are no such steps the Processor can take;
- because of the Exceptional Circumstances, the Unilateral Prospective Stepdown is unavoidable; and
- the Processor gives the Farmer and the Australian Competition and Consumer Commission written notice at least 30 days before the Unilateral Prospective Stepdown occurs of the following:
 - i. the Unilateral Prospective Stepdown;
 - ii. the Exceptional Circumstances;
 - iii. the reasonable steps (if any) the Processor has taken or will take as mentioned in paragraph 0;
 - iv. why the Unilateral Prospective Stepdown is unavoidable;
 - v. the period to which the Unilateral Prospective Stepdown applies.

If the Processor implements a Unilateral Prospective Stepdown, the Processor must as soon as practicable after the variation provide the Farmer with:

- the variation; and
- written notice of:
 - i. the reason for the variation; and
 - ii. the day the variation takes effect.

The Supplier has the right to terminate this Agreement within 21 days after receiving notice of a Unilateral Prospective Stepdown, with effect from the day the Unilateral Prospective Stepdown occurs. The Supplier may rescind a termination under this provision before the end of the 21 day period.

The Minimum Price must not be further reduced as a result of the Supplier rescinding a termination under this provision.

GST Law has the meaning set out in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insolvency Event, in relation to a party, means any of the following events:

- (a) an order is made, or a resolution is passed, that the party be wound up, dissolved or liquidated;
- (b) a liquidator, provisional liquidator, controller or voluntary administrator is appointed in respect of the party or a substantial portion of its assets whether or not under an order;
- (c) the party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or gives notice of its intention to do so (with or without conditions);
- (d) the party suspends payment of its debts or proposes or is subject to a moratorium of its debts;
- (e) the party seeks or obtains protection from its creditors under any statute or other law;
- (f) the party is or states that it is insolvent, or is deemed or presumed to be insolvent under applicable law;
- (g) any attachment, distress, execution or other process is made or levied against any material asset of the party and is not satisfied within seven days;
- (h) the party ceases to carry on all or the substantial part of its business (or threatens to do so); or
- (i) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Intellectual Property includes all rights to, and any interests in, any patent, design, trade mark, copyright, know-how, trade secret and any other proprietary right or form of intellectual property (whether protectable by registration or not) in respect of any technology, concept, idea, data, programme or other software (including in source and object codes), specification, formula, recipes, ingredients lists, drawing, programme, design, system, process, logo, mark, style or other matter or thing, existing or conceived, used, developed or produced by any person and all other rights as defined in Article 2 of the Convention of July 1967 establishing the World Intellectual Property Organisation, including all applications for any of such rights as may exist anywhere in the world.

Mediation pursuant to the Code

Mediation

Appointment of mediator

- (a) Mediation Adviser means the person appointed as mediation adviser under regulation 44 of the Dairy Code by the Minister for Agriculture, Drought and Emergency Management (Federal).
- (b) The parties must request the Mediation Adviser to appoint a mediator for the dispute.
- (c) The Mediation Adviser:
 - (i) must appoint a mediator within 14 days after receiving the request under clause (b) unless the Mediation Adviser is satisfied that the complaint giving rise to the dispute:
 - (a) is frivolous or vexatious; or
 - (b) has previously been the subject of another mediation; and
 - (ii) must give the parties to the dispute, in writing, details of the mediator appointed.

Conduct of mediation

- (d) Subject to (c), the mediator must decide:
 - (i) how the mediation is to be conducted (for example, by telephone or in meetings); and
 - (ii) the time and place for the mediation; and
 - (iii) the day the mediation commences for the purposes of this Agreement.
- (e) The mediation must be conducted in Australia.

Notice of commencement of mediation

- (f) Within 14 days after the mediation has commenced, the mediator must notify the Mediation Adviser, in writing, that the mediation has commenced and of the nature of the dispute.

Attendance at mediation

- (g) Each party to the dispute must attend the mediation and attempt to resolve the dispute.
- (h) A party is taken to attend a mediation to attempt to resolve a dispute if the party is represented at the mediation by a person who has authority to enter into an agreement to settle the dispute on behalf of the party.

Notice of successful mediation

- (i) If an agreement is reached in relation to the dispute, the mediator must, within 14 days after the agreement is reached:
 - (i) set out, in writing, the terms of the agreement; and
 - (ii) give a copy of the terms to each party to the dispute; and
 - (iii) notify the Mediation Adviser that an agreement has been reached.
- (j) The party who requested the mediation may, at any time, withdraw the complaint that is the subject of the dispute by notice in writing to the other party to the dispute and the mediator.

Termination of mediation

- (k) The mediator conducting a mediation of a dispute in accordance with this Agreement:
 - (i) may terminate the mediation at any time if the mediator is satisfied that a resolution of the dispute is not likely to occur; and
 - (ii) must terminate the mediation if the party who requested the mediation requests the mediator to do so.
- (l) If a dispute that is the subject of mediation in accordance with this Agreement is not resolved within 30 days after the mediation commenced:
 - (i) the respondent to the mediation may ask the mediator to terminate the mediation; and
 - (ii) the mediator must do so.
- (m) If the mediator terminates a mediation, the mediator must issue a certificate stating:
 - (i) the names of the parties to the mediation; and
 - (ii) the nature of the dispute that was the subject of the mediation; and
 - (iii) that the mediation has been terminated; and
 - (iv) that the dispute has not been resolved.
- (n) The mediator must give a copy of the certificate to:
 - (i) the Mediation Adviser; and
 - (ii) each party to the dispute.

Costs of mediation

- (o) Each party to a dispute that was the subject of a mediation must pay half the costs (if any) of the mediation (being all reasonable costs associated with the conduct of the mediation).
- (p) Each party to a dispute that was the subject of a mediation must pay that party's costs of attending the mediation.

Personnel of a person means a director or other officer, employee, or contractor of, or sub-contractor, consultant, or adviser to, that person or any of its related bodies corporate, when acting in that capacity. The Personnel of a2MCA do not include Kyvalley Dairy Group or any of Kyvalley Dairy Group's Personnel.

1.2. Interpretation

In this document, the following rules of interpretation apply unless a contrary intention appears.

- 1.2.1. Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document.
- 1.2.2. The singular includes the plural and vice versa and a reference to a gender includes all other genders.
- 1.2.3. A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Government Agency.
- 1.2.4. A reference to:
 - 1.2.4.1. *a person includes that person's successors, permitted substitutes and permitted assigns;*
 - 1.2.4.2. *a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this document;*
 - 1.2.4.3. *this document or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;*
 - 1.2.4.4. *"agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;*
 - 1.2.4.5. *legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;*
 - 1.2.4.6. *"include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;*
 - 1.2.4.7. *dollars or \$ is to Australian dollars;*
 - 1.2.4.8. *time is to the time in Melbourne, Victoria; and*
 - 1.2.4.9. *writing includes any mode of representing or reproducing words in tangible and permanently visible form.*
- 1.2.5. Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.
- 1.2.6. A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document.
- 1.2.7. Where an act would be required to be done (including the payment of any money), or a time limit or period would expire, on a day that is not a Business Day, the act must be done or the limit or period will expire, on the following Business Day.
- 1.2.8. A period of time expressed to commence:
 - 1.2.8.1. *before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and*
 - 1.2.8.2. *on a given day, or on the day of an act or event, is to be calculated inclusive of that day.*

1.3. Payments

If a party is required to pay an amount under this document, it must pay the amount by direct deposit of cleared funds to a bank account in the name of the payee, the details of which are notified by the payee at least two Business Days before the due date for payment, without any set-off, deduction, withholding or retention of any amount unless expressly contemplated by this document, required by law or directed by the payee.



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