

Milk Supply Agreement – Northern Victoria 2021 / 2022

(Incorporating the Statement of Circumstances)



Table of Contents

Statement of Circumstances	3
Milk Supply Agreement	4
1. Exclusivity	5
2. Term	5
3. Minimum Pricing (including Minimum Pricing Table)	5
4. Statutory Levies	8
5. Milk Payment Basis	8
6. Payment	8
7. Quality and Raw Milk Standards	9
8. Milk Fat and Protein Standards (Components)	9
9. Quality Standards	9
10. Milk Collection and Title	10
11. Levies and Charges	10
12. GST	11
13. Milk Quantity and Quality Reports	11
14. Sour or Tainted Milk	11
15. Milk Collection	11
16. Milk Collection Access	11
17. Exceptional Circumstances	11
18. Reviews	12
19. Farm Dairy Licence	12
20. Advertisement	12
21. Termination	12
22. Effect of Termination	13
23. Dispute Resolution Procedure	13
24. Confidentiality	14
25. Warranties	15
26. Indemnity	15
27. Insurance	15
28. Force Majeure	15
29. Relationship between the Parties	16
30. Notices	16
31. General	16
32. Counterparts and execution	18
33. Records	19
34. Governing Law	19
35. Special Conditions	19
36. Further Provisions	19
37. Schedules	20
Executions	21

STATEMENT OF CIRCUMSTANCES

Kyvalley Dairy Group proudly supplies fresh dairy products to customers all over Australia and into . We are an Australian owned family business, and our suppliers, existing and new, are part of our family. As always, we remain loyal to our current suppliers, and they will be given preference in meeting our target milk requirement for Northern Victoria for the coming 2021/22 season.

We are pleased to offer a competitive milk price high quality flat milk in Northern Victoria for commencement supply year 21/22 (1st July 2021 to 30 June 2022). Details of our milk price model and terms are set out in the Kyvalley Milk Supply Agreement Northern Victoria and Supplier Handbook attached.

In respect to our desired volumes for the 2021/22 supply year, we are looking to maintain current supply volumes to service our customers.

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 and advice on achieving flat supply. 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 Mike Leijen, General Manager of Milk Supply on 0447785821 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 – Northern Victoria

This Milk Supply Agreement is made this day of 2021 between:

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

Name:

Physical Address:

(Supplier)

Postal Address:

Email: Phone:

Fax: Alt Phone:

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

Recitals

This Milk Supply Agreement (MSA) consists of this document along with the Kyvalley 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 Milk to Kyvalley Dairy Group, ☐ or
2. an exclusive supply agreement for the supply of Milk to Kyvalley Dairy Group, ☐ or
3. an exclusive supply agreement for the supply of A2 Milk to Kyvalley Dairy Group as an A2
Approved Supplier (as defined) ☐.

(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 Milk to Kyvalley Dairy Group and Kyvalley Dairy Group agrees to purchase 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 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 months, season commencing 1 July 2021 and ending 30 June 2022.

This MSA begins on the signing date and remain in force for the period of the contract. 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 milk supplied to Kyvalley Dairy Group will be as provided for in line with Kyvalley Dairy Group's 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-months for the period of this contract.

Kyvalley Dairy Group Minimum Milk Price for the 2021-2022 Supply Year – Northern Victoria
(refer to Schedule 1 for eligible locations)

KYVALLEY DAIRY GROUP MINIMUM PRICING TABLE	A2 Approved Supplier Exclusive Agreement	A1 Exclusive Agreement	Non Exclusive Agreement
BASE MILK PRICE:			
Base Price (all months)	40.7 cpl	40.7 cpl	40.7 cpl
SEASONAL PAYMENTS:			
Monthly Seasonal Incentive			
July - August	2.8 cpl	2.8 cpl	
January	1.8 cpl	1.8 cpl	
February - March	6.3 cpl	6.3 cpl	
April	3.3 cpl	3.3 cpl	
May - June	1.8 cpl	1.8 cpl	
And			
Flat milk incentive (all months)	up to 12 cpl	up to 12 cpl	
Or	or	or	
Seasonal Milk Incentive (all months)	up to 8.0 cpl	up to 8.0 cpl	
BONUSES:			
Branded Milk Premium	2.0 cpl		-
Milk fat supplied above 4.0% (all months)	\$5.00/kg milkfat	\$5.00/kg milkfat	-
Quality Bonuses			
Excellent BMCC - less than 125,000 cells/ml	3.0 cpl	3.0 cpl	3.0 cpl
Good BMCC - in the range of 125,000-250,000 cells/ml	2.0 cpl	2.0 cpl	2.0 cpl
Excellent Thermoduric - less than 500 cfu/ml	3.0 cpl	3.0 cpl	3.0 cpl
PENALTIES:			
Low Milk Fat - <3.6% (all months)	\$10.0/kg milkfat	\$10.0/kg milkfat	\$10.0/kg milkfat
Low Milk Protein - <3.15% (all months)	\$15.0/kg protein	\$15.0/kg protein	\$15.0/kg protein
Poor BMCC - greater than 500,000 cells/ml	3.0 cpl	3.0 cpl	3.0 cpl
Poor Thermoduric - between 1,500 and 3,000 cfu/ml	3.0 cpl	3.0 cpl	3.0 cpl
Bad Thermoduric – greater than 3,000 cfu/ml	10.0 cpl	10.0 cpl	10.0 cpl
Poor SPC - greater than 15,000	3.0 cpl	3.0 cpl	3.0 cpl
Poor Coliform - greater than 150	1.0 cpl	1.0 cpl	1.0 cpl
DEDUCTIONS:			
Volume Charge	2.6 cpl	2.6 cpl	2.6 cpl
Stop Charge	\$7.50/pick up	\$7.50/pick up	\$7.50/pick up
Dairy Australia and Dairy Food Safety Victoria Levies			

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 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, your volume, your vat storage capacity and whether you are an A2 Approved Supplier for the purposes of supplying A2 Milk. 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 Your Forecast Supply will also be used for the purposes of estimating your likely Total Flat Supply and any Flat Supply Bonus monthly pre-payments that will apply under Kyvalley Dairy Group's Minimum Milk Price.
- 3.1.4 Milk Pricing is made up of a Base Milk price (cents/litre) plus adjustments up and down for volume, seasonality, components and quality.

3.2 A2 Milk Supply

- 3.2.1 If you are an A2 Approved Supplier and eligible to supply A2 Milk to Kyvalley, an additional bonus of 2c/ltr will be payable for all A2 Milk supplied throughout the Supply Year.

NOTE – Kyvalley Dairy Group require the Supplier to be certified by the a2 Milk Company (Australia) Pty Ltd to be eligible to be an A2 Approved Supplier.

3.3 Flat Supply Volume Bonus

- 3.3.1 As a fresh market milk processor, customer demand for milk is relatively flat and unseasonal. Kyvalley Dairy Group encourages the Supplier to move towards flat all year round Milk supply and:
- 3.3.2 Suppliers who are able to supply milk with a supply ratio of lower than 1:1 (Highest monthly daily average volume divided by lowest monthly daily average volume) will receive a bonus of 12 c/L.
- 3.3.3 Suppliers who are able to supply milk with a volume ratio between 2.4:1 and 1:1 will receive a graduated bonus added to the base price for the season.
- 3.3.4 Suppliers with a volume ratio greater than 2.4:1 will not be entitled to a Flat Supply Bonus.

Refer to the Kyvalley Dairy Group Supplier Handbook for a detailed description (including a worked example) of how the Flat Milk Incentive is calculated.

3.4 Volume Accuracy

3.4.1 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. The forecast volume will be used to calculate the monthly payment of the Flat Milk Incentive.

- a. 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 to calculate monthly Flat Milk Incentive payments for the remainder of the year.
- b. It is important that suppliers discuss with us any changes to their business which may impact on their Flat Milk Incentive.

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.

5. Milk Payment Basis

Kyvalley Dairy Group's 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 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 Kyvalley Dairy Group's Milk Quality & Supply Policies (refer Supplier Handbook - Quality Requirements) in recognition of Kyvalley Dairy Group's Quality Requirements;
- a. The Supplier acknowledges that the price paid by Kyvalley Dairy Group for 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.
- 8.3 A failure to achieve the minimums specified requirements for fat and protein components as set out in the Kyvalley Dairy Group Supplier Handbook will result in deductions to your Milk Price paid for the month. These are outlined in the bonus and penalty section of this document.

9. Quality Standards

- 9.1. Enclosed in the Kyvalley Dairy Group 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 milk supplied is better than the required standards a bonus may be payable, and 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.
- 11.2 Dairy Licence Fee levied by Dairy Australia. All milk processors are required to pay Dairy Australia the Farm Licence fees on behalf of their suppliers.

- 11.3 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 SPC (Standard Plate Count) take 3 days to complete.
- 13.2 BMCC tests are conducted by an external laboratory at least twice weekly from samples made up of each pickup sample.
- 13.3 These will be reported when the results are available. The reports will provide the latest test results and month to date figures to illustrate trends.
- 13.4 The reports will be emailed or if this is not possible will be left with the quantity record in your vat room by the tanker driver.

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 on 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 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 in 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 to 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 being given and received:

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

The parties agree to the following special conditions. (To the extent of any inconsistency between these special conditions and the remainder of the agreement, these special conditions prevail.)

36. Further Provisions.

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

37. Schedules

Schedule 1

Northern Victoria/NSW Postcode locations that apply to Northern Victoria payment model currently serviced by Kyvalley dairy Group.

3561	3620	3636	3564	3608
3616	3575	3567	3565	3610
3621	2731	3568	3566	3612
3634	3637	3562	3572	3614
3640	3638	3563	3573	3616
3617	3622	3624	3630	3635
3618	3623	3629	3631	3691
3639	3644	3646	3641	

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

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:

Witness signature

Witness full name
(BLOCK LETTERS)

Supplier signature

Supplier 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:

GM Milk Supply

GM Milk Supply 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:

Bank Name: Account Name:

Bank BSB: Account No:

Signature of Supplier:

Date:

Sharefarmer Details:

Name of Sharefarmer:

Address of Sharefarmer:

Sharefarmer ABN:

Bank Name: Account Name:

Bank BSB: Account No:

Signature of Sharefarmer:

Date:

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

GM Milk Supply Full name
(BLOCK LETTERS)