

DATA SUBSCRIBER TERMS

1. INCORPORATION OF TERMS

- 1.1 Use of the Register and myNGR by a Data Subscriber is subject to these Terms and NGR's Privacy Policy.
- 1.2 A Data Subscriber may only agree to be bound by these Terms if a Data Subscriber can enter into a legally binding contract under any applicable law. If a Data Subscriber cannot enter into a legally binding contract, the Data Subscriber must immediately cease using NGR's Services including attempting to access myNGR.
- 1.3 By accepting these Terms and using the Register and myNGR, a Data Subscriber:
- (a) accepts and agrees to be bound by these Terms;
 - (b) warrants and represents it has full legal capacity to enter into a legally binding contract, and has full legal capacity and power to comply with these Terms and NGR's Privacy Policy;
 - (c) agrees these Terms constitute legal, binding, valid and enforceable agreements against it; and
 - (d) consents to electronically enter into transactions and sign agreements and documents with NGR.
- 1.4 If a Data Subscriber does not accept these Terms, a Data Subscriber must not utilise the Register and myNGR.
- 1.5 These Terms become binding on a Data Subscriber:
- (a) when an Authorised User, who has Authority to act for and on behalf of the Data Subscriber, accepts these Terms and Privacy Policy on myNGR or otherwise notifies NGR in writing that they accept these Terms and our Privacy Policy;
 - (b) if these Terms are amended by NGR, when the Authorised User accepts the amended Terms on behalf of the Data Subscriber or the Data Subscriber or its Authorised User otherwise continues to use the Register or myNGR after being notified the Terms have been amended.
- 1.6 These Terms form the terms and conditions of the contract between NGR and a Data Subscriber. Any terms or conditions put forward by a Data Subscriber will not be binding on NGR unless NGR specifically agrees in writing.
- 1.7 NGR may amend these Terms at any time in its absolute discretion and for any reason including but not limited to for example:
- (a) to address NGR's operational requirements;
 - (b) due to legal or regulatory changes; or

(c) due to changes to the Services NGR may provide from time to time, including the features or the functionality of myNGR or the Register.

- 1.8 NGR will publish amended Terms to the Website. An Authorised User of a Data Subscriber will be asked by NGR to accept the updated Terms but are not obliged to and the Data Subscriber may terminate this agreement with NGR if the Data Subscriber does not accept the amended Terms. If the Data Subscriber does not accept the amended Terms, the Data Subscriber must not utilise myNGR or the Register and NGR must cease access to myNGR or the Register by the Data Subscriber immediately.
- 1.9 A Data Subscriber agrees the amended Terms will immediately apply from the time its Authorised User accepts them, and as they are published on the Website www.ngr.com.au and on myNGR.
- 1.10 A Data Subscriber's continued use of the Register and myNGR after NGR publish updated Terms constitutes its acceptance to be bound by the amended Terms.
- 1.11 A Data Subscriber or its Authorised User can obtain a current copy of the current Terms and NGR's Privacy Policy by accessing the Website www.ngr.com.au or contacting NGR on 1800 556 630.

2. THE NATIONAL GROWER REGISTER AND myNGR

- 2.1 NGR has established a Register known as the National Grower Register and has appointed an Operator to maintain the Register.
- 2.2 For each Grower who is a Data Subscriber's Grower, NGR may, in respect of that Grower, provide to the Data Subscriber and its Authorised User:
- (a) the Grower's Core Data, but only during the financial year in which the Data Subscriber is Listed on that Grower;
 - (b) the Grower's Subscription Data on a subscription basis during the Subscription Period, provided the Data Subscriber is Listed on that Grower during the Subscription Period;
 - (c) such other Services that NGR may provide to a Data Subscriber as agreed with a Grower and Data Subscriber from time to time, subject to these Terms and our Privacy Policy.

- 2.3 A Data Subscriber and its Authorised Users must be registered with NGR to obtain access to a Grower's Data and may only access Subscription Data of a Data Subscriber's Grower if the Data Subscriber is first registered as a Data Subscriber for:
- (a) Identification Purposes;
 - (b) Contact Purposes; or
 - (c) Payment Purposes,
- and pays the relevant Fees in accordance with these Terms.
- 2.4 The level of access and the Services subscribed to by a Data Subscriber determine the:
- (a) information the Data Subscriber and its Authorised Users may be able to access from the Register using myNGR;
 - (b) Services the Data Subscriber may be provided by NGR;
 - (c) Fees payable by a Data Subscriber to NGR for access to the Data and provision of the Services; and
 - (d) Data Subscriber's and its Authorised User's rights and obligations.
- 2.5 NGR has created an internet based software application known as myNGR which establishes a unique online portal for a Data Subscriber and its Authorised User to:
- (a) register as an Authorised User within myNGR;
 - (b) create, access and self-administer an Authorised User Account and Data Subscriber Account; and
 - (c) subject to clause 2.2 and these Terms, access various sections of myNGR and access Data of a Data Subscriber's Grower to which the Data Subscriber may subscribe from time to time.
- 2.6 Subject to these Terms, myNGR allows:
- (a) an Authorised User of a Data Subscriber to register as an Authorised User on myNGR and create an Authorised User Account;
 - (b) a registered Authorised User access to their Authorised User Account and Data Subscriber Account to maintain and self-administer their Authorised User Account and their Data Subscriber's Account once created and registered;
 - (c) a Data Subscriber, by their Authorised User, to access within myNGR certain Data of a Data Subscriber's Grower to which that Data Subscriber has subscribed; and
 - (d) access to myNGR by way of a revocable, non-exclusive and non-transferrable licence to access and use myNGR via an Access Method.
- 2.7 NGR may at any time change or cancel an Access Method of an Authorised User or Data Subscriber (or both) and issue a different Access Method for access to myNGR.
- 2.8 NGR does not represent or warrant that:
- (a) access or use of the Register or myNGR will be uninterrupted or error free;
 - (b) any errors or deficiencies will be rectified or that the Register or myNGR is free of harmful components such as viruses or malware;
 - (c) the use of the Register or myNGR by a Data Subscriber or its Authorised User will be lawful regardless of whether it is permitted under these Terms;
 - (d) the Register or myNGR will exist and be maintained for any period of time.
- 2.9 NGR may cancel, suspend or terminate the registration of an Authorised User, a Data Subscriber or the Grower Registration Number of a Data Subscriber's Grower and refuse access to myNGR or the Register or any part of them, and cease providing the Services at any time in NGR's sole discretion:
- (a) to protect the integrity of myNGR, the Register, and all Confidential Information;
 - (b) for NGR's operational requirements;
 - (c) to address legal or regulatory change or compliance;
 - (d) to ensure compliance with these Terms;
 - (e) if NGR believe, acting reasonably, that a Data Subscriber or its Authorised User has breached these Terms; or
 - (f) for any other reason that NGR considers, acting reasonably, compels or requires NGR to do so, and NGR may inform a Data Subscriber of that cancellation, suspension or deregistration.
- 2.10 NGR may alter, suspend or cease operating the Register or myNGR at any time at NGR's discretion and may change any functionality of the Register or myNGR at any time and for any reason, including for the reasons set out in clause 2.9.
- 2.11 NGR may appoint a service provider to host the Register from time to time.

3. DATA SUBSCRIBERS

3.1 An Existing Data Subscriber and its Authorised Users will be registered as a Data Subscriber and Authorised User (respectively) of myNGR. For this purpose an Existing Data Subscriber is a Data Subscriber registered with NGR as at 6 June 2016.

3.2 A person may apply to become a Data Subscriber of NGR by:

- (a) completing and submitting the Application Form and providing NGR with all necessary information required by NGR pursuant to the Application Form, the Application Conditions and these Terms; and
- (b) paying the Joining Fee and if applicable, the annual Administration Fee.

3.3 By completing and submitting the Application Form and paying the relevant Joining Fee and if applicable Administration Fee, a Data Subscriber:

- (a) requests access to myNGR and the Register for the Data Subscriber and its Authorised Users and the provision of Services from NGR;
- (b) nominates the Data and other Services it seeks from the Register and to which the Data Subscriber wishes to subscribe;
- (c) nominates the purpose for which access to myNGR, the Register and the use of Data is required;
- (d) nominates:
 - (i) a Listing Representative;
 - (ii) an Administrative Representative;
 - (iii) a Technical Representative,
 to perform the functions as referred to in the Application Form and these Terms;
- (e) appoints and authorises each Authorised User to act on its behalf;
- (f) agrees to provide NGR with all KYC Information in accordance with the AML/CTF or as NGR may require from time to time;
- (g) agrees to provide NGR with:
 - (i) certified front and back copies of two (2) Primary Identification Documents of its Administrative Representative certified by an acceptable referee (Justice of the Peace, Commissioner for Declarations, solicitor or Notary Public); or
 - (ii) certified front and back copies of one (1) Primary Identification Document and one (1) Secondary Identification Document of its Administrative Representative certified by

an acceptable referee (Justice of the Peace, Commissioner for Declarations, solicitor or Notary Public); and

- (iii) a front and back copy of a Primary Identification Document of its Listings Representative and Technical Representative certified as true and correct by the Administrative Representative,

or procure its Authorised Users to provide NGR with the requisite Authorised User's Primary and Secondary Identification Documents;

- (h) must, if requested by NGR, confirm in writing the Authority of the Authorised Users to act on its behalf; and

- (i) authorises and consents to NGR:

- (i) communicating with its Authorised Users in any way NGR sees fit including by electronic means in accordance with these Terms and for the efficient operation of myNGR and the Register;

- (ii) undertaking a background and financial check on each Applicant;

- (iii) using all information provided by the Data Subscriber or on its behalf (including by an Authorised User) to:

A. market to the Data Subscriber and its Authorised User;

B. share the information with other organisations as is required, permitted or allowed by these Terms, our Privacy Policy or by law;

C. publicise the fact that a Data Subscriber is a Data Subscriber of NGR;

- (j) must disclose to NGR a Data Subscriber's Associated Entities or Subsidiaries.

3.4 NGR is not obliged to accept the purpose nominated by an Applicant in the Application Form and may at its discretion grant a Data Subscriber the access NGR believes is appropriate for the Data Subscriber.

3.5 NGR may accept or reject an Application in its sole discretion.

3.6 If an Application is accepted by NGR, and the Data Subscriber pays the Joining Fee (or as the case may be, Re-joining Fee) and any Administration Fee, Usage Fee or Subscription Fees (if applicable), NGR will confirm and agree with the Data Subscriber in writing and

otherwise provide the Data Subscriber and each of its Authorised Users with:

- (i) access to myNGR and the Register in accordance with the level of access authorised by NGR in respect of a Grower's Core Data;
- (ii) the Subscription Data to which a Data Subscriber may have access during a Subscription Period;
- (iii) Services agreed to be provided by NGR and subscribed to by a Data Subscriber from time to time in respect of the Subscription Data or other Services during the Subscription Period,

subject to the Application Conditions, these Terms and NGR's Privacy Policy.

3.7 An Data Subscriber for Identification Purposes:

- (a) will be entitled, subject to these Terms and the Rules to adopt a unique Grower Registration Number as an identifier for the Data Subscriber's Growers, customers and clients during the financial year in which the Data Subscriber for Identification Purposes is Listed on the Grower Registration Number of the Grower;
- (b) will not:
 - (i) be entitled to access or receive any other data, Grower Details or User Contact Details on myNGR or the Register;
 - (ii) divulge or disclose the unique Grower Registration Number to any third party (including an Associated Entity or Subsidiary whether disclosed or not) for any reason, except as required by law or with our prior consent in writing.

3.8 A Data Subscriber for Contact Purposes:

- (a) will be entitled, subject to these Terms and the Rules, to:
 - (i) access limited Core Data matched to a Grower Registration Number of the Data Subscriber's Growers during the financial year in which the Data Subscriber for Contact Purposes is Listed on the Grower Registration Number of the Grower;
 - (ii) an update in electronic form of the limited Core Data of any of its unique Listings and any changes to the limited Core Data of any of its unique Listings already registered to it;
 - (iii) request via myNGR a Download of the limited Core Data in electronic form to its

database of any Grower Registration Number Listed on it;

- (b) acknowledges that access to the limited data fields is for the sole purpose of Grower identification or such other purpose agreed in writing by the Data Subscriber's Growers, customers or clients and by NGR;
- (c) will not be entitled to access or receive any other Grower Data on the Register or myNGR, except as provided in these Terms or otherwise allowed with NGR's prior consent in writing;
- (d) will not divulge or disclose any Confidential Information or Grower Data (with the exception of the information on the face of the NGR Card and telephone number of the Primary User of the Primary Payee) to any third party including:
 - (i) an Associated Entity or Subsidiary of the Data Subscriber, whether disclosed or not;
 - (ii) an entity that has:
 - A. a different ABN to that of the Data Subscriber; or
 - B. a different trading name to that of the Data Subscriber; or
 - C. different trading names under the same ABN as the Data Subscriber; or
 - D. in the case of a company, a different Australian Company Number to that of the Data Subscriber,
 for any reason, except as required by law or with NGR's prior consent in writing;
- (e) will not use a Grower's Data outside of the financial year in which the Data Subscriber for Contact Purposes is Listed on the Grower Registration Number of the Grower;
- (f) may during the Subscription Period, subscribe to Subscription Data and such other Services as NGR agrees to provide from time to time on a user-pays subscription basis.

3.9 A Data Subscriber for Payment Purposes:

- (a) will be entitled, subject to these Terms and the Rules, to:
 - (i) access the Core Data matched to a Grower Registration Number of the Data Subscriber's Growers during the financial year in which the Data Subscriber for Payment Purposes is Listed on the Grower Registration Number of the Grower;

- (ii) an update in electronic form of the Core Data of any of its unique Listings and any changes to the Core Data of any of its unique Listings already registered to it;
 - (iii) request via myNGR a Download of the Core Data in electronic form to its database of any Grower Registration Number Listed on it;
 - (b) allow any disclosed Associated Entity or Subsidiary who NGR reasonably consider requires the Core Data of their Data Subscriber Grower's, for their own operational requirements; will not use a Grower's Data outside of the financial year in which the Data Subscriber for Contact Purposes is Listed on the Grower Registration Number of the Grower;
 - (c) may during the Subscription Period, subscribe to Subscription Data and such other Services as NGR agrees to provide from time to time on a user-pays subscription basis.
- 3.10 NGR may agree or refuse to:
- (a) register a person as a Data Subscriber on myNGR or the Register without assigning any reason therefor;
 - (b) provide access to myNGR or the Register to any person; or
 - (c) provide Data or Services to any person including a Data Subscriber and or an Authorised User of a Data Subscriber.
- 3.11 NGR may cancel, suspend or de-register a Grower's Registration Number or the registration as a Data Subscriber and refuse access to myNGR or the Register or any part of them at any time in NGR's sole discretion including for the reasons set out in clause 2.9.
- 3.12 The period of suspension is at NGR's discretion.
- 3.13 The suspension of registration as a Data Subscriber ceases at 9.00 am on the Business Day following the date NGR notifies the Data Subscriber or its Authorised User that the suspension has ceased.
- 3.14 There is no limit to how many times NGR can suspend a Data Subscriber's registration.
- 3.15 A Data Subscriber may cease registration as a Data Subscriber by requesting, in writing, NGR to deregister its Data Subscriber Account.
- 3.16 A Data Subscriber's registration as a Data Subscriber may also be cancelled if its Data Subscriber Account becomes an Inactive Account.
- 3.17 NGR may cancel a Data Subscriber's access to myNGR and the Register, and deny access to myNGR and the Register by Data Subscriber if:
- (a) the Data Subscriber requests in writing;
 - (b) the Data Subscriber or its Authorised User endeavours to access or accesses myNGR contrary to the level of access authorised by NGR;
 - (c) the Data Subscriber or its Authorised User uses a Growers Data outside of the financial year in which the Data Subscriber is Lister on the Grower Registration Number of the Growers;
 - (d) the Data Subscriber fails to comply with the Data Subscriber's obligations under these Terms or NGR's Privacy Policy; or
 - (e) for any of the reasons set out in clause 2.9.
- 3.18 NGR may cancel an Authorised User's Authority to access myNGR and the Register, and deny access to myNGR and the Register by an Authorised User or terminate the provision of Services to an Authorised User if:
- (a) the Authorised User is unable to quote the Security Question and Answers or Login Name and Password;
 - (b) the Authorised User is unable to quote the NGR Card Number for the Grower Data requested;
 - (c) the Authorised User endeavours to access or accesses myNGR contrary to the level of access authorised by NGR;
 - (d) the Authorised User notifies NGR in writing that the Authorised User no longer has Authority to act on behalf of the Data Subscriber fails to confirm to NGR upon request the Authority of the Authorised User to act on behalf of the Data Subscriber;
 - (e) the Authorised User uses a Growers Data outside of the financial year in which the Data Subscriber is Listed on the Grower Registration Number of the Grower; or
 - (f) for any of the reasons set out in clause 2.9.
- 3.19 NGR may cancel a Data Subscriber's Authority to access myNGR and the Register, and deny access to myNGR and the Register by a Data Subscriber and its Authorised Users or terminate the provision of Services to a Data Subscriber if:
- (a) the Data Subscriber requests in writing;
 - (b) its Authorised User is unable to quote the Security Question and Answers or Login Name and Password;

- (c) its Authorised User is unable to quote the NGR Card Number for the Grower Data requested;
 - (d) endeavour to access or access myNGR contrary to the level of access authorised by NGR;
 - (e) fail to comply with the Data Subscriber's obligations under these Terms or NGR's Privacy Policy;
 - (f) notify NGR in writing that an Authorised User no longer has Authority to act on behalf of the Data Subscriber or the Data Subscriber fails to confirm to NGR upon request the Authority of the Authorised User to act on behalf of the Data Subscriber;
 - (g) use a Grower's Data outside of the financial year in which the Data Subscriber is Listed on the Grower Registration Number of the Grower; or
 - (h) for any of the reasons set out in clause 2.9.
- 3.20 Notwithstanding cancellation, suspension or denial of access to myNGR or the Register, a Data Subscriber is indebted to NGR for the payment of the Fees until the time of cancellation, suspension or denial of access to myNGR or the Register.
- 3.21 Upon cancellation of a Data Subscriber's registration as a Data Subscriber, NGR may remove or otherwise delete all Listings from a Data Subscriber's Data Subscriber Account.
- 4. AUTHORISED USER**
- 4.1 A Data Subscriber may appoint a person to act for it as an Authorised User.
- 4.2 Upon registration as an Authorised User, an Authorised User:
- (a) may act for a Data Subscriber as:
 - (i) Listing Representative who has responsibility for and who may access, view and download a Grower's Core Data;
 - (ii) an Administrative Representative who has responsibility for and who has Authority to List and may appoint and assign Authorised Users and who maintains the contact details for a Data Subscriber and its Authorised Users; or
 - (iii) a Technical Representative who has responsibility for and who must maintain the technical specifications and Advanced Preferences for a Data Subscriber's use of myNGR and Data Subscriber Account,
 or a combination of them as approved by NGR;
 - (b) will be permitted access to the Data Subscriber's Account once created, a Grower's Data as allowed by NGR of a Data Subscriber's Growers and the Services;
 - (c) represents and warrants that they have Authorisation to act on behalf of the Data Subscriber;
 - (d) acknowledges they are responsible for the creation, self-administration and use of Data Subscriber's Account and all information contained within them;
 - (e) may perform the functions allowed to be performed by them depending on whether they are a Listing Representative, Administrative Representative or Technical Representative,
- but only in accordance with NGR's requirements as specified from time to time.
- 4.3 A person may apply to register as an Authorised User with NGR, with the Authorisation of a Data Subscriber, by:
- (a) obtaining a Confirmation Code by being invited in writing by an Administrative Representative, and logging on to the website www.ngr.com.au and at the myNGR Login tab, enter a valid Confirmation Code issued to them by NGR;
 - (b) confirming in writing their acceptance of these Terms and our Privacy Policy;
 - (c) completing the Authorised User registration process as required by NGR from time to time;
 - (d) by providing appropriate Proof of Identity Information to an Administrative Representative who confirms sighting of that Proof of Identity Information via our myNGR invitation process.
- 4.4 If a person is added as an Authorised User to a Data Subscriber's Account, that person must accept these Terms and NGR's Privacy Policy before registering as an Authorised User.
- 4.5 A change to a Data Subscriber's Account may be notified in writing to the Data Subscriber.
- 4.6 NGR may cancel, suspend or withdraw the registration of an Authorised User at any time and for any reason, including for the reasons set out in clause 2.9.
- 4.7 Each Authorised User agrees that:
- (a) if the Authorised User no longer has Authorisation to act on behalf of the Data Subscriber, or the registration as a Data Subscriber is cancelled,

suspended or withdrawn for any reason the Authorised User must:

- (i) immediately cease acting as an Authorised User;
 - (ii) inform NGR in writing of the cancellation, suspension or withdrawal of the Authorisation;
 - (iii) not access, attempt to access myNGR or permit a third party who does not have Authorisation to access myNGR or the Data Subscriber's Account, or the Grower's Data;
 - (iv) must return all Confidential Information to the Data Subscriber or NGR as directed by NGR;
- (b) when contacting NGR the Authorised User must correctly identify themselves and answer their Security Questions & Answers;
- (c) when accessing myNGR the Authorised User must use a valid Login Name, Password.
- (d) they will not divulge their Login Name, Password or Security Questions & Answers to any third party;
- (e) they must ensure they have all Electronic Equipment and facilities necessary to allow them access to myNGR via the Access Method;
- (f) they are responsible to protect and maintain:
- (i) the currency, integrity and security of myNGR utilised by them; and
 - (ii) the Login Name, Password, Security Questions & Answers, encryption keys or any other information relating to the Access Method, authentication or security of myNGR;
- (g) they will not use myNGR in a way that may violate the rights of any person or breach any law and acknowledge that the submission, transmission or maintenance of any information in violation of any law is prohibited;
- (h) they must comply with these Terms and NGR's Privacy Policy;
- (i) on request from NGR, they must provide to NGR:
- (i) a certified copy of two (2) Primary Identification Documents; or
 - (ii) a certified copy of one (1) Primary Identification Document and one (1) Secondary Identification Document; and
 - (iii) a copy of any written Authorisation given by the Data Subscriber;

- (j) not use the Grower's Data outside of the financial year during which the Data Subscriber that they represent are Listed on the Grower Registration Number of the Grower, or outside of the Subscription Period that may apply, as the case may be.

5. NGR's UNDERTAKINGS AND WARRANTIES

5.1 NGR will, subject to these Terms:

- (a) issue an NGR Card to each Grower that:
 - (i) delivers, sells Agricultural Product to, or purchases Agricultural Product from, (or contracts to deliver, sell Agricultural Product to, or purchase Agricultural Product from) a Data Subscriber; or
 - (ii) undertakes an Approved Dealing with a Data Subscriber; and
 - (iii) is willing to register his or her Grower Data with myNGR.
- (b) collect from the Grower the Core Data before issuing the NGR Card by means of the Grower Registration Process;
- (c) obtain from the Grower the Authority for NGR:
 - (i) to provide the Grower's Data to a Data Subscriber and its Authorised User during each financial year in which a Data Subscriber is Listed on the Grower Registration Number of the Grower, or during the Subscription Period (as the case may be); and
 - (ii) to use the Grower Data to enable NGR to provide the Services to the Data Subscriber;
- (d) require the Grower and its Users to agree that a Data Subscriber may act in reliance on the Grower Data;
 - (i) during the financial year in which the Data Subscriber is Listed on the Grower Registration Number of the Grower;
 - (ii) to make payments to the Payees listed for the NGR Card or otherwise transact business with the Data Subscriber; and/or
 - (iii) during the Subscription Period when Services are provided to that Data Subscriber;
- (e) use its best endeavours to maintain myNGR and the Register and provide reasonable access to:

- (i) a Grower and its Users to maintain and self-administer its Grower Account; and
 - (ii) a Data Subscriber and its Authorised Users to maintain and self-administer its Data Subscriber Account;
 - (iii) allow a Data Subscriber and its Authorised Users access to Data in accordance with the Services NGR may provide to a Data Subscriber from time to time.
- (f) update myNGR and the Register to reflect changes to the Grower Data as advised by Growers or their Users from time to time;
- (g) disallow a Data Subscriber and its Authorised Users access to the Grower Data except:
- (i) in accordance with the authority to access myNGR granted by NGR to it; and
 - (ii) with a Grower's consent; and
 - (iii) for Growers on which a Data Subscriber is Listed in each financial year or during the Subscription Period (as the case may be);
- (h) disallow access to myNGR or the Register to a Proscribed Person;
- (i) comply with NGR's Privacy Policy and Privacy Laws and ensure NGR's employees and agents are aware of and comply with NGR's Privacy Policy and Privacy Laws;
- (j) comply with the AML/CTF Law; and
- (k) hold the Australian Taxation Office "Statement by a Supplier Form" on behalf of the Grower, which shall be made available to a Data Subscriber and its Authorised Users on request.
- (l) for each of the Data Subscriber's Growers, procure a warranty from each Grower that the Grower Data provided by the Grower and their Users is accurate; and
- (m) procure from each of the Data Subscriber's Growers, an indemnity in favour of NGR and each Data Subscriber, with respect to any Claim or Liability suffered or incurred by either NGR or a Data Subscriber if the Grower Data is not accurate.
- (b) ensure all information provided to NGR or recorded in the Data Subscriber's Account is accurate, current, true and correct;
 - (c) comply with NGR's Privacy Policy and Privacy Laws in respect of the Grower Data, myNGR and the Register and all other information provided to NGR and must at all times (even after the end of the Subscription Period or termination of these Terms and notwithstanding these Terms may be terminated) ensure its Authorised Users and where applicable its Associated Entities and Subsidiaries also comply with the Privacy Policy and Privacy Laws;
 - (d) ensure the Grower Data is stored, used, disclosed and destroyed in a secure manner;
 - (e) ensure the Grower Data is protected against misuse and loss, or unauthorised access, modification or disclosures;
 - (f) have procedures in place to deal with complaints or requests for access from Growers;
 - (g) notify NGR if it becomes aware of any breach of its obligations under NGR's Privacy Policy or these Terms and comply with any reasonable direction from NGR with respect to how it may remedy that breach;
 - (h) ensure its Authorised Users, employees and agents are aware of and comply with NGR's Privacy Policy, Privacy Laws and the requirements of these Terms;
 - (i) have and distribute upon request and, if it has a website, publish on its website, a Privacy Policy that addresses its intended use of the Grower Data and any information provided by NGR to it;
 - (j) update the Data Subscriber Account and the Authorised User Account as soon as possible once it becomes aware of any incorrect information recorded on myNGR or the Register;
 - (k) advise NGR as soon as a Data Subscriber becomes aware of any unauthorised transaction with regard to its Data Subscriber Account or the Grower Data;
 - (l) pay to NGR the Fees set by NGR in accordance with these Terms or otherwise as advised by NGR from time to time;
 - (m) advise NGR as soon as practicable after it becomes aware of any incorrect Grower Data on myNGR or the Register;
 - (n) not attempt to obtain the NGR Card numbers or Grower Data of Growers (for example by touting or

6. DATA SUBSCRIBER'S UNDERTAKINGS AND WARRANTIES

6.1 Each Data Subscriber must:

- (a) comply with these Terms and NGR's Rules and act honestly and in good faith in all of its dealings with NGR;

- trawling for such information) not Listed against the Data Subscriber's Account or contrary to the Authority to access myNGR granted by NGR to it;
- (o) not disclose or make the Confidential Information or Grower Data (with the exception of the NGR Card Information and the telephone number of the Primary User of the Primary Payee) available to any third party including:
- (i) a Proscribed Person; or
 - (ii) an undisclosed Associated Entity or undisclosed Subsidiary of the Data Subscriber; or
 - (iii) an Associated Entity or Subsidiary (whether disclosed to NGR or not) who NGR reasonably considers do not require the Confidential Information or Grower Data for their operational requirements; or
 - (iv) an entity that has:
 - A. a different ABN to that of the Data Subscriber; or
 - B. a different trading name to that of the Data Subscriber; or
 - C. different trading names under the same ABN as the Data Subscriber; or
 - D. in the case of a company, a different Australian Company Number to that of the Data Subscriber,
 for any reason, except as required by law or with NGR's prior consent in writing;
- (p) not use a Grower's Payment Details or Confidential Information for any purpose other than:
- (i) the payment to the Grower for purchases of Agricultural Product;
 - (ii) invoicing for the provision of services to the Grower;
 - (iii) any mandatory returns to the Australian Taxation Office or other Government body in respect of such transactions;
 - (iv) any other purpose authorised by the Grower;
- (q) not pass Grower Data on to another Data Subscriber of NGR for any purpose other than as allowed by these Terms;
- (r) take all reasonable steps to ensure that any Associated Entity or Subsidiary complies with its undertakings and these Terms;
- (s) not:
- (i) take commercial advantage of or use Confidential Information other than as prescribed by these Terms;
 - (ii) allow any of its Authorised Users, Associated Entities, Subsidiaries, directors, shareholders, employees or agents to use for commercial advantage any Confidential Information belonging to NGR other than as prescribed by these Terms;
- (t) take all reasonable steps to:
- (i) protect NGR's Confidential Information obtained by a Data Subscriber or its Authorised User;
 - (ii) prevent any conflict between NGR's business interests and the Data Subscriber's financial interests;
- (u) ensure an Insolvency Event does not occur in respect of the Data Subscriber;
- (v) after termination of this agreement, the end of the Subscription Period or the cancellation, suspension or deregistration of the registration as a Data Subscriber, a Data Subscriber must:
- (i) not use or continue to use Grower Data; and
 - (ii) return to NGR or destroy (as NGR directs in writing) all Confidential Information in the possession or under the control of the Data Subscriber.
- 6.2 Each Data Subscriber warrants, acknowledges and agrees that:
- (a) it has legal capacity to enter into a legally binding contract;
 - (b) whilst NGR uses its best endeavours to ensure that all information stored in the Register or provided to a Data Subscriber is accurate, complete, up-to-date and reliable and error free, the Data Subscriber acknowledges that this may not always be the case and NGR does not represent or warrant that this will be the case because it relies on Growers to provide accurate information;
 - (c) it is solely responsible for ensuring that its Data Subscriber Account is utilised only in respect of its Data Subscriber's Growers on which it is Listed in a financial year or during the Subscription Period, and only by an Authorised User with Authority to act for it;

- (d) if its Authorised User's Login Name and Password are lost or stolen, it is its responsibility to notify NGR of such occurrence so that its Data Subscriber Account can be suspended;
 - (e) NGR may utilise information provided by a Data Subscriber in accordance with the terms of NGR's Privacy Policy and these Terms;
 - (f) there is a risk that it may not be able to access Services or myNGR via its Electronic Equipment or Device due to NGR's operational processes and those of its technology and communication partners in respect of computers, computer networks and telecommunications;
 - (g) all information provided to NGR including information contained in the Application Form, or recorded in your Data Subscriber Account is accurate, current, true and correct;
 - (h) NGR may be required to and may suspend, cancel or refuse access to the Services, the Register or myNGR and may close or terminate any arrangement as to access to the Services, the Register or myNGR at any time and without notice, including for the reasons set out in clause 2.9;
 - (i) it is responsible for and indemnify NGR against the acts and omissions of each Authorised User, including any person a Data Subscriber authorises to act on its behalf or who may otherwise access the Register or myNGR using an Authorised User's Security Questions & Answers and Login Name and Password, whether with or without the Data Subscriber's Authorisation;
 - (j) all communications and acceptances, including undertakings and warranties given in these Terms, whether given electronically, in writing or verbally, received by NGR and ostensibly or actually given on behalf of the Data Subscriber is deemed to be authorised by that Data Subscriber;
 - (k) it agrees to do everything reasonably necessary to protect the unique Login Name, Password, Security Questions & Answers, and encryption keys of its Authorised Users;
 - (l) may send it or its Authorised Users Confirmation Codes, alerts, and notifications via Electronic Equipment, post, facsimile, SMS, email, or push notification service and NGR reserves the right to change the way in which NGR communicates with a Data Subscriber and its Authorised User;
 - (m) for some communications with NGR, the Authorised Users may be requested to supply their Login Name and Password and to correctly identify and answer their Security Questions & Answers;
 - (n) NGR may refuse to cancel a registration of a Data Subscriber or allow it to change its Data Subscriber Account and may determine in NGR's absolute discretion to satisfy itself that a Data Subscriber and its Authorised Users have Authorisation to access and change the Data Subscriber's Account. In doing so, NGR may request from a Data Subscriber or any other person, such additional information as NGR considers reasonably necessary;
 - (o) NGR may refuse, delay or agree to make a cancellation, change or amendment to the Services, any information on the Register or myNGR or any part of it at any time and for any reason;
 - (p) Its Authorised User:
 - (i) has Authority to act on behalf of the Data Subscriber;
 - (ii) consents to the use of their information contained in the Application Form (or otherwise provided to NGR) by NGR for enabling access to and the efficient operation of myNGR and the Register;
 - (iii) may do any and all things that the Data Subscriber may be permitted to do under these Terms, including the right to access the Services, the Grower Data on myNGR or the Register and for the purposes expressed in the Application Form and Application Conditions;
 - (q) it is bound by the acts of the Authorised User regardless of whether those acts are done in breach of the Authorised User's authority or negligently or in breach of these Terms;
 - (r) it appoints NGR as its agent to hold the Australian Taxation Office "Statement by a Supplier Form" provided to the Data Subscriber by the Grower, and to provide the "Statement by a Supplier Form" to the Data Subscriber upon written request.
- 6.3 Each Data Subscriber further agrees that it must:
- (a) promptly notify NGR of any error or suspected error relating to myNGR or the Register;

- (b) develop contingency plans to deal with any disruption, cancellation or alteration to the Services, the Register or myNGR or any part of it including its software or functionality;
 - (c) take reasonable action to prevent unauthorised use of myNGR originating within its organisation or by means of the Authorised Users;
 - (d) immediately notify NGR if it or one of its Authorised Users know or suspect of any unauthorised use or security breaches of myNGR;
 - (e) use the Services, the Register and myNGR only in strict accordance and compliance with the policies, procedures and methods as specified by NGR from time to time;
 - (f) use myNGR in a manner that does not interfere with or disrupt other network users, services or equipment;
 - (g) notify NGR of any adverse material change that may affect your business arrangements with NGR.
- 6.4 NGR has relied upon these representations, warranties and undertakings contained in these Terms in determining whether to allow a data Subscriber and its Authorised Users to register with NGR and access the Services, the Register and myNGR.
- 6.5 If a Data Subscriber is at any time acting in the capacity of trustee of any Trust ("Trust") and in that event the following will apply:
- (a) these Terms extend to all rights of indemnity which the Data Subscriber has against the Trust;
 - (b) the Data Subscriber warrants that it has power and authority to enter into these Terms and it must not release any right of indemnity or commit any breach of trust or be a party to any other action which might prejudice a right of indemnity;
 - (c) it must not without NGR's written consent allow any of the following events to occur:
 - (i) the replacement as sole trustee of the Trust;
 - (ii) any variation of the terms of the Trust;
 - (iii) any distribution of capital of the Trust;
 - (iv) any re-settlement of the trust property
- 7. USE OF INFORMATION**
- 7.1 Each Data Subscriber and its Authorised Users authorise and consent to NGR:
- (a) communicating with them in any way NGR sees fit including by electronic means to provide the Services and for the efficient operation of the Register and myNGR;
 - (b) releasing, providing and disseminating the Grower Data, and the Services to them, and Listings as nominated by or on behalf of the Data Subscriber;
 - (c) using the information for the purposes specified in the Privacy Policy;
 - (d) at any time granting to itself the same benefits that the Data Subscriber has agreed to grant NGR under these Terms;
 - (e) using at any time, and from time to time, the Data Subscriber's Account details for NGR's operational requirements including the provision of Services and operation of the Register and myNGR; and
 - (f) disclosing the Data Subscriber's Account details to third parties as agreed by a Data Subscriber or otherwise as required by law;
 - (g) disclosing to a Data Subscriber's Grower that the Data Subscriber is Listed on the Grower.
- 7.2 The information a Data Subscriber and its Authorised Users provide will be used by NGR for administrative and operational purposes for the operation of the Register and myNGR or as required by law.
- 7.3 NGR may utilise the Data Subscriber Account details to provide the Data Subscriber with information via email, post, facsimile, SMS or other electronic means from time to time.
- 7.4 NGR will retain all documents and information stored electronically and recorded on myNGR indefinitely, however physical hard copy documents are retained by NGR for a period of seven (7) years from the date of the document or date of creation of the document on myNGR.
- 7.5 Each Data Subscriber consents to NGR securely destroying its physical documents and information that NGR receives from or on behalf of a Data Subscriber after a period of seven (7) years from the date of the document or the date of creation of the document.
- 7.6 Each Data Subscriber may, before this time, request NGR in writing to return or otherwise destroy its documents and information.
- 8. ACCURACY, COMPATIBILITY AND SUITABILITY OF INFORMATION**
- 8.1 NGR is reliant on the Grower for the accuracy or currency of the Grower Data. NGR does not represent

- that the Grower Data as provided to NGR is accurate or current.
- 8.2 NGR does not represent that the supply in electronic form of information will be compatible with the Data Subscriber's information systems. It is the responsibility of each Authorised User of a Data Subscriber to satisfy itself about these matters.
- 8.3 To the maximum extent permitted by law NGR gives no warranty or undertaking and makes no representation to a Data Subscriber or their Authorised Users, or their Associated Entity or Subsidiary about the suitability of, or fitness of, myNGR or the Register for the Data Subscriber or its Authorised Users, Associated Entity's or Subsidiary's purposes other than those warranties, undertakings or representations expressly set out in these Terms or which cannot be excluded by law.
- 8.4 To the maximum extent permitted by law any other representation, warranty, condition or undertaking is excluded.
- 9. FEES**
- 9.1 A Data Subscriber must pay the Joining Fee and Administration Fee at the same time as it submits the Application Form. The Joining Fee is non-refundable regardless of whether or not the Application is successful.
- 9.2 If, after ceasing to be entitled to access myNGR (for any reason), a Data Subscriber wishes to again be entitled to access myNGR it must submit a fresh Application Form and pay to NGR the Rejoining Fee.
- 9.3 During the term of this Agreement:
- (a) a Data Subscriber for Contact Purposes or Payment Purposes must pay to NGR an annual Usage Fee and Administration Fee, in addition to any Joining Fee or Rejoining Fee, for the access to the Grower's Core Data;
 - (b) a Data Subscriber must pay an additional Subscription Fee for access to and use of the Subscription Data accessed and used by the Data Subscriber during the Subscription Period; and
 - (c) a Data Subscriber must pay an additional fee for Services provided to it by NGR and as subscribed to by the Data Subscriber on a user-pays subscription basis, in an amount determined by NGR from time to time and published in a Fees Schedule.
- 9.4 Each Data Subscriber acknowledges and agrees that the Usage Fees will be calculated based on:
- (a) the quantity of Listings in each financial year; and
 - (b) the pricing band for that particular quantity of Listings in each financial year as set by NGR from time to time; and
 - (c) the price per quantity of Listings in each financial year per band as set by NGR from time to time.
- 9.5 NGR may change the Usage Fee applicable from 1 July each year.
- 9.6 NGR will provide to each Data Subscriber an invoice in respect of the Usage Fee showing:
- (a) the quantity of Listings for the previous quarter;
 - (b) the pricing band applicable to its Listings; and
 - (c) the price per Listing.
- 9.7 Each Data Subscriber acknowledges that:
- (a) it will be invoiced quarterly for the Usage Fee based on the number of Listings for the previous fiscal quarter;
 - (b) the pricing band for each Data Subscriber will be fixed based on the quantity of Listings at the commencement of each financial year regardless of whether the number of Listings vary throughout the financial year;
 - (c) the pricing band may vary from financial year to financial year; and
 - (d) NGR will notify the Data Subscriber in writing of the Usage Fee for the following financial year ending 30 June by not later than 30 May in each year.
- 9.8 Each Data Subscriber may by notice in writing to NGR elect to terminate these Terms without prejudice to either party's accrued rights and obligations under these Terms and otherwise without penalty provided such notice is served on NGR within thirty (30) days of receipt of notification of the new Usage Fee applicable from 1 July of each year.
- 9.9 If a Data Subscriber does not serve such notice in accordance with clause 9.8, it will be taken to be bound to pay the Usage Fee so notified in accordance with these Terms.
- 9.10 The Subscription Fees payable by a Data Subscriber for the Data Subscriber's access to and use of the Subscription Data and the Services subscribed to by the Data Subscriber from time to time is in accordance with NGR's current Fees Schedule which may vary from time to time including depending on the Subscription Data and Services accessed by and provided to a Data Subscriber.

9.11 Notwithstanding the above clauses, a Data Subscriber must pay all amounts due to NGR within 30 days of the date of a Tax Invoice for such amount.

10. DEFAULT INTEREST

10.1 A Data Subscriber must pay interest at the Interest Rate on any moneys due but unpaid under these Terms.

10.2 Interest will be calculated daily and be compounded monthly and accrue from the date of due payment until actual payment to NGR.

11. GST – RECIPIENT CREATED TAX INVOICES

11.1 This clause applies if a Data Subscriber has applied for and been granted authority to access myNGR as a Data Subscriber for Payment Purposes and will be receiving the data field ‘RCTI Permission’ from NGR.

11.2 Each Data Subscriber:

- (a) confirms that it is a registered entity for the purposes of the GST Law;
- (b) agrees to advise the Grower through NGR if it ceases to be registered under the GST law;
- (c) agrees to issue the Grower with an RCTI in accordance with the GST law within twenty-eight (28) days of the delivery of agricultural product by the Grower to the Data Subscriber or within twenty-eight (28) days of the determination of the value of that supply, whichever is the later;
- (d) agrees not to issue an RCTI if any of the RCTI determination requirements are not met;
- (e) agrees to provide the following statement on all RCTIs for Growers “this is a reminder that a Data Subscriber agrees to allow NGR to issue RCTIs when a Data Subscriber registered as a Grower with NGR and accepted the Grower and User Terms.”
- (f) appoints NGR as its agent to procure a “RC written RCTI agreement” for the purposes of the GST law and any GST ruling.

11.3 Where the Grower provides NGR with an Australian Business Number, NGR agrees to provide the Data Subscriber with the Grower’s Australian Business Number where that Grower supplies Agricultural Product to the Data Subscriber.

11.4 The parties expressly acknowledge and agree to read this clause with any other agreement entered into between them, as the Data Subscriber’s agent and any Grower.

12. LIMITATION OF LIABILITY, INDEMNITY AND INSURANCE

12.1 Subject to the other provisions of these Terms, NGR indemnifies a Data Subscriber from and against amounts a Data Subscriber is legally liable to pay others (and only to the extent that liability arises independent of this agreement or indemnity) arising directly out of:

- (a) NGR’s wrongful or negligent act or omission; or
- (b) a breach by NGR of the terms or warranties contained in these Terms.

12.2 Subject to the other provisions of these Terms, a Data Subscriber and where applicable its Associated Entity and Subsidiary indemnify NGR and the Supplier from and against all Claims and Liabilities sustained by NGR or the Supplier arising out of a breach by a Data Subscriber, or its Authorised Users, its Associated Entity or Subsidiary, of these Terms or Privacy Policy.

12.3 Each Data Subscriber agrees that neither NGR nor the Supplier is liable to a Data Subscriber for any indirect, special, economic or consequential loss or damage or loss of revenue, potential profits, profits, goodwill, bargain or opportunities incurred or suffered by a Data Subscriber whether caused by a breach of these Terms, negligence or otherwise, and whether a Data Subscriber is aware or should have been aware of the possibility of such loss or damage.

12.4 Each Data Subscriber acknowledges and agrees that NGR’s liability and the Supplier’s liability is limited to the higher of the following amounts:

- (a) in the case of services supplied or offered by NGR or the Supplier, the supply of the services again, or the payment of the cost of having the services supplied again; and
- (b) in the case of goods supplied or offered by NGR or the Supplier, the replacement of the goods or the supply of equivalent goods, the repair of such goods, the payment of the cost of replacing the goods or acquiring the equivalent goods, or the payment of the cost of having the goods repaired.

12.5 Each Data Subscriber agrees that under no circumstances (including but not limited to any act or omission by NGR or negligence on NGR’s part), will NGR or the Supplier be liable to a Data Subscriber in relation to the misuse of the Register, myNGR or a Data Subscriber’s information by any third party whether directly or indirectly, including as a result of or directly or indirectly relating to a cyber event or cyber-attack.

- 12.6 Each Data Subscriber assumes the entire risk for any use made of myNGR and the Register and shall indemnify NGR and the Supplier in relation to a Data Subscriber's use of myNGR and the Register.
- 12.7 To the maximum extent permitted by law, neither NGR nor the Supplier give any warranty or undertaking and make no representation to a Data Subscriber about the suitability of, or fitness for use of, myNGR or the Register including whether myNGR or the Register may be suitable for a Data Subscriber's purposes, other than those warranties, undertakings and representations expressly set out in these Terms.
- 12.8 Any other warranty, representation or condition or undertaking is excluded.
- 12.9 Each Data Subscriber acknowledges and agrees that:
- (a) myNGR and the Register is provided on a "as is, as available" basis only;
 - (b) neither NGR nor the Supplier can guarantee that the Data recorded on either myNGR or the Register is correct, accurate, up to date, complete, reliable or not subject to errors or malfunctions of any kind, as it is reliant on information and Data provided by third persons.
- 12.10 Each Data Subscriber agrees to indemnify NGR and the Supplier against any Claims or Liabilities arising out of a Data Subscriber's use (including unauthorised use) of or access to the Register or myNGR, or the lawful exercise of NGR's rights pursuant to these Terms.
- 12.11 Each Data Subscriber agrees to indemnify NGR and the Supplier from and against all Claims and Liabilities suffered or incurred by either NGR or the Supplier or a Grower or User if the information a Data Subscriber or a Data Subscriber's Authorised Users provide to NGR or the Supplier is not accurate or NGR or the Supplier have been provided with inaccurate information by a Data Subscriber or someone else on a Data Subscriber's behalf.
- 12.12 NGR or the Supplier will provide upon request a certificate of currency evidencing that NGR carries professional indemnity insurance of at least \$5,000,000.00 covering negligence on NGR's part.
- 12.13 Nothing in this clause obliges NGR or the Supplier to commence proceedings or take action against a Grower or User whether in NGR's own right or on a Data Subscriber's behalf in respect of a breach of warranty by a Grower or User.

TERMINATION

- 12.14 NGR may terminate this agreement on thirty (30) days' notice in writing to a Data Subscriber including for the reasons set out in clause 2.9.
- 12.15 Each Data Subscriber may terminate this agreement on thirty (30) days' notice in writing to NGR.
- 12.16 Upon termination of this agreement, the registration of a Data Subscriber is cancelled and that Data Subscriber must cease all use of the Register, myNGR, the subscription data and must return to NGR or destroy (as NGR directs in writing) all Confidential Information in the possession or under the control of the Data Subscriber.
- 12.17 Any representations, warranties, undertakings, disclaimers, releases or indemnities capable of surviving termination or which apply upon termination will survive termination of this agreement and be able to be enforced.

13. GENERAL

13.1 Governing Law

These Terms are governed by the law in force in Queensland.

A Data Subscriber submits to the non-exclusive jurisdiction of the Courts exercising jurisdiction in Queensland, and any Court that may hear appeals from any of those Courts, for any proceedings in connection with these Standard Terms and Conditions, and waives any right a Data Subscriber might have to claim that those Courts are an inconvenient forum.

13.2 Costs

A Data Subscriber will bear its own expenses incurred in connection with:

- (a) the transactions that these Terms contemplate; and
- (b) any amendment to, or any consent, approval, waiver, release or discharge of or under, these Terms.

13.3 Good Faith

A Data Subscriber must do anything (including execute any Deed), and must ensure that its employees and agents do anything (including execute any Deed), that may reasonably be required to give full effect to these Terms.

13.4 Waiver

A right may be waived if in writing signed by the parties, and:

- (a) no other conduct of the party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

13.5 Entire Understanding

These Terms contain the entire agreement between the parties about its subject matter. A Data Subscriber acknowledges that, except as is expressly stated in these Terms, a Data Subscriber has not relied on any representation, warranty, promise or undertaking of any kind by any person on NGR's behalf.

Any right that a party may have under these Terms is in addition to, and does not replace or limit, any other right that the party may have at law or in equity. Nothing in these Terms shall be deemed to be, or shall operate as, a waiver of any of our or the Operator's rights that may have accrued or which may exist prior to the commencement of these Terms.

Any provision of these Terms which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make these Terms enforceable, unless this would materially change the intended effect of these Terms.

13.6 Consent

Where these Terms contemplate that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; or
- (b) agree or consent subject to conditions, unless these Terms expressly contemplate otherwise.

13.7 Set Off

A Data Subscriber may not set off any amount that is or may become owing to a Data Subscriber against any amount it owes NGR under these Terms.

13.8 No Merger

Nothing in these Terms merges with any other judgment or other right or remedy that a party may hold at any time. Upon termination the antecedent rights of the party remain enforceable and will not merge on termination.

13.9 Statutes

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to these Terms is excluded to the full extent permitted by law.

13.10 Inconsistency

If these Terms are inconsistent with any other document or agreement between the parties, these Terms prevail to the extent of the inconsistency.

13.11 Change of Law

In the event that a change of law makes the performance by a party under these Terms unlawful, the parties agree to use their best endeavours to re-negotiate the terms of these Terms. If they cannot agree within sixty (60) days of the commencement of the relevant legislation, either party may terminate these Terms without prejudice to each party's accrued rights but otherwise without penalty.

13.12 Force-Majeure

A party will not be liable for any delay in or failure of performance caused by Force Majeure (except that delay in payment of money under these Terms is never excused by Force Majeure). In the event of a Force Majeure that causes delay in performance by more than sixty (60) days, either party may terminate these Terms without prejudice to each party's accrued rights but otherwise without penalty.

13.13 Power of Attorney

If a Data Subscriber acts on behalf of a party under a Power of Attorney, the Data Subscriber declares and warrants that the Data Subscriber:

- (a) has proper authority by that Power of Attorney to perform its obligations under these Terms;
- (b) has not received notice of Revocation of Power of Attorney;
- (c) are not aware of any fact or circumstance that might affect its authority to act as attorney under that Power of Attorney; and
- (d) will provide to NGR a certified copy of the Power of Attorney upon request.

13.14 Assignment and Delegation

- (a) A Data Subscriber may not assign or delegate any of its rights or obligations under these Terms without NGR's written consent;
- (b) Any purported assignment and delegation in the absence of such consent shall be ineffective;

- (c) NGR may assign or delegate all of our rights and obligations under these Terms, fully or partially, by notice in writing to you;
- (d) NGR may also disclose the Grower Details and User Contact Details to a third party as part of a sale or transfer of the assets (or part of them) of ours or an Operator, or division of them, or as a result of a change in control of NGR or one of our Associated Entities or in the preparation for any of these events.
- (e) Any other party to which NGR or an Operator transfers or sells assets (or part of them) will have the right to continue to use the Grower Details and User Contact Details for operational requirements including the operation of the Register and myNGR.

14. **DEFINITIONS**

In these Terms, unless the context otherwise requires:

Access Level means the level of authority permitted by NGR to a Data Subscriber on myNGR which may be as a Data Subscriber for Payment Purposes, a Data Subscriber for Contact Purposes or a Data Subscriber for Identification/Listing Purposes.

Access Method means the method NGR make available to a Data Subscriber allowing a Data Subscriber and your Authorised Users access to your Data Subscriber Account.

Administration Fee means the annual fee set by NGR from time to time and payable by the Data Subscriber in accordance with the terms of these Terms.

Agricultural Product means products or Commodities derived from viticulture, horticulture, pasturage, apiculture, poultry farming and dairy farming or other operations connected with the cultivation of the soil, the gathering in of crops and the rearing of livestock.

AML/CTF Law means the Anti-Money Laundering and Counter-Terrorism Financing Act and any regulations made pursuant to that Act as amended from time to time.

Applicant means a person who completes and submits to NGR an Application Form.

Application Conditions means the terms and conditions stated in the Application Form.

Application Form means the application form completed by a person to become a Data Subscriber consisting of an application form to which the

Application Conditions, these Terms and our Privacy Policy apply.

Approved Dealing means a Primary Production related transaction between a Payee and a Data Subscriber.

Associated Entities has the same meaning as that term is defined in the *Corporations Act 2001*.

Authorised User means a person who acts on behalf of a Data Subscriber and who the Data Subscriber lists as having authority to act for it on its Application Form or otherwise in writing.

Authorised User Account means the Authorised User Contact Details, date of birth, Security Questions & Answers, Login Name and Password.

Authorised User Contact Details means the name, address (postal, residential and business address), telephone number (including mobile telephone number), facsimile number, email address and preferred method of communication of an Authorised User of a Data Subscriber.

Authority or Authorisation means an authorisation, consent, right, certificate, licence, permit or declaration whether in writing or otherwise.

Business Day means a day which is not a Saturday, Sunday or public holiday in Toowoomba, Queensland.

Claim means, in relation to a person, any action, allegation, claim, demand, judgment, Liability, proceeding, remedy, right of action or right of set-off made against the person concerned however it arises whether:

- (a) it is present, unascertained, immediate, future or contingent;
- (b) it is based in contract, tort, statute or otherwise; or
- (c) it involves a third party or a party to this contract.

Commodity includes Grain, Agricultural Product or other article of trade or commerce.

Confidential Information means all information whether stored or accessible only by electronic means or held in hard copy relating to the Register, myNGR or NGR including the processes, equipment, techniques, Data Subscribers, Authorised Users and their Contact Details, Agreements, Grower Accounts, User Contact Details and arrangements and agreements with third parties, client information, Grower formulae, concepts or designs, trade secrets, computer programs, software and computer applications, works, inventions, discoveries, facts or data relating to the Register, myNGR or NGR, and including any information which

the Data Subscriber or Authorised User becomes aware of by observation, deduction, reasoning, inspection and overhearing.

Confirmation Code means a computer generated random number issued by NGR to a person who seeks to be an Authorised User of a Data Subscriber to allow online access to myNGR, to facilitate the creation of a Data Subscriber Account and subsequent registration by them of a Data Subscriber on myNGR.

Core Data means the Grower Details and User Contact Details and may include certain Subscription Data as and when required to enable NGR to provide the Services.

Data means so much of the Core Data, Subscription Data or a combination of certain data fields of either Core Data or Subscription Data, and any other information which may be provided by NGR to a Data Subscriber or its Authorised User as part of NGR's Services and only in accordance with these Terms.

Data Subscriber means:

- (a) a person that holds from time to time a current Password to access certain data on myNGR and the Register and whose authority to access myNGR and the Register has not subsequently been cancelled, suspended or whose access to myNGR and the Register has not been denied for any reason;
- (b) our shareholders (including their successors and assigns).

Data Subscriber Account means in respect of each Data Subscriber:

- (a) the name, Australian Business Number, address (including postal address), telephone number, website and allowed domain names of the Data Subscriber;
- (b) the Access Level of the Data Subscriber;
- (c) the Authorised User Contact Details (under the allowed domain name), role, job title and department of the Authorised Users of the Data Subscriber, but excluding the Security Questions & Answers, Login Name and Password of an Authorised User;
- (d) the Grower Registration Number, name and date listed of each Listing of the Data Subscriber;
- (e) the Downloads of the Data Subscriber;
- (f) the preferred method of communication and any available electronic contact details for all Authorised Users of that Data Subscriber,

and any other information that NGR may collect from a Data Subscriber and provide to a Data Subscriber or their Authorised Users from time to time.

Data Subscriber for Contact Purposes means a Data Subscriber entitled to access only restricted data and who requires access to data on the NGR for the sole purpose of:

- (a) customer or member identification;
- (b) such other purpose as may be agreed in writing by the Data Subscriber's Growers, customers or clients and the Supplier.

Data Subscriber for Identification Purposes means a Data Subscriber who adopts the unique Grower Registration Number as an identifier for the Data Subscriber's Growers, customers and clients.

Data Subscriber for Payment Purposes means a Data Subscriber who:

- (a) identifies themselves as a Trader or person who requires access to all of the Grower's Core on myNGR pursuant to these Terms; and
- (b) can satisfy us, in our absolute discretion, that the Data Subscriber is a genuine Commodity Trader as that term is used in these Terms; and;
- (c) may require access to Subscription Data of a Data Subscriber's Grower, during a Subscription Period or in respect of a service offering by NGR.

Data Subscriber Registration Process means the process utilised by a Data Subscriber to register as a Data Subscriber on myNGR as prescribed by NGR from time to time.

Data Subscriber's Growers means Growers on whom a Data Subscriber is Listed on the Register and whom the Data Subscriber can demonstrate to our reasonable satisfaction have either:

- (a) delivered Agricultural Product to you, or sold or contracted to sell Agricultural Product to you; or
- (b) purchased or contracted to purchase Agricultural Product from you.

Device means a physical device used with Electronic Equipment to access a Data Subscriber Account.

Downloads for a Data Subscriber Account means in the respect of the Data Subscriber's Growers Data specific to the Data Subscriber provided in various file types.

Electronic Equipment includes a computer, tablet, electronic device, telephone and mobile phone.

Fees means the Usage Fees, Subscription Fees, Joining Fee, Re-Joining Fee, Administration Fee and fee for

Services or any one or more of them as the context requires and as may apply from time to time.

Fees Schedule means the schedule of fees published by NGR applicable to Subscription Data or other Services supplied by NGR under this Agreement.

Force Majeure means an act of God, fire, lightning, explosion, flood, subsidence, insurrection, civil disorder, expropriation, government or quasi government restraint, delay in obtaining government or quasi government approvals, industrial disputes and any other cause, whether similar or not, outside the affected party's control.

Grain includes all dry bulk commodities including, without limitation, grain, minerals, woodchips, fertiliser and chemicals.

Grower means:

- (a) an individual producer of Grain, Agricultural Product or other Commodity;
- (b) a Partnership or other entity associated for the purpose of producing and selling Grain or other Agricultural Product or other Commodity;
- (c) a Trader of Grain which delivers Grain to a bulk grain handling facility or which purchases warehoused Grain;
- (d) any Primary Producer involved in Primary Production;
- (e) any other person or has authority to act for a Grower or who is validly associated with a Grower or a Grower's Account.

Grower Account means the Grower's Details, the Users of a Grower, the User's Contacts Details, and Listings for a Grower, but does not include each User's Login Name and Password.

Grower Data means the Core Data and if subscribed to by a Data Subscriber the Subscription Data of a Grower.

Grower Details means in respect of each Grower:

- (a) the names of the persons or trading entities that are Payees in respect of the Grower Account;
- (b) the User Contact Details for Users in respect of that Payee;
- (c) the address, GPS coordinates and location by State and, in the case of South Australian properties, (hundred), of the main grain or Agricultural Product producing property contributing grain or Agricultural Product to be sold using the NGR Card;
- (d) the percentage split of payments to go to each of the Payees;

(e) the preferred method of payment (cheque or direct credit);

(f) the bank BSB, account number and account name of each of the Payees;

(g) the Australian Business Number of the business or trading entity (if provided);

(h) the GST status of the Payees,

and any other information that NGR may collect from a Payee or Grower and provide to a Data Subscriber or their Authorised Users from time to time.

Grower Registration Number means a form of identification issued by NGR to a Grower Account carrying a unique Register identification number.

GST has the same meaning as in the GST Law.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999, A New Tax Act System (Goods and Services Administration) Act 1999* and any regulations made pursuant to those Acts as amended from time to time.

Inactive Account means a Grower Account that has had no Listings recorded for 5 consecutive years or has been identified by the Grower as no longer required, or has incorrect taxation details or User Contact Details.

Insolvency Event means in relation to a Data Subscriber any one or more of the following events or circumstances:

- (a) being in liquidation or provisional liquidation or under administration;
- (b) having a controller or similar person appointed to any of its property or to it;
- (c) becoming an insolvent under administration as defined in the Corporations Act 2001; or
- (d) entering into a formal compromise or arrangement with, or assignment for the benefit of, any of its members or creditors.

Intellectual Property Rights means all intellectual property rights throughout the world, whether registered, unregistered or unregistrable, in and relating to the Register, myNGR and NGR including all names, copyright, patents, trademarks, service marks, trade names, designs, confidential information, trade secrets, know how, data and databases, circuit layout rights, systems, domain names, email addresses, post office box numbers, telephone numbers and facsimile numbers of NGR or myNGR.

Interest Rate means a rate of interest per annum which is 3 percentage points higher than our Financial

Institution's corporate overdraft rate as may apply from time to time.

Joining Fee means the joining fee set by NGR from time to time and payable by a Data Subscriber at the same time as a Data Subscriber submits the Application Form.

KYC Information has the same meaning ascribed to that term under the AML/CTF.

Liability means a debt, liability or Obligation, whether:

- (a) actual, contingent or prospective;
- (b) present or future;
- (c) qualified or unqualified; or
- (d) incurred jointly or severally with any other person.

Listings mean all Data Subscriber links to a Grower within myNGR or the Register including changes to those Listings. A Listing is linked to a Data Subscriber if the Data Subscriber has nominated a Grower as a Data Subscriber's Grower. A Data Subscriber is Listed on or against a Grower if the Data Subscriber has nominated a Grower as a Data Subscriber's Grower and the Data Subscriber link to the Grower within myNGR or the Register is current.

Login Name means:

- (a) the unique name selected by an Authorised User; and
- (b) which name when correctly entered by an Authorised User in combination with a Password, allows the Authorised User access to a Data Subscriber Account.

myNGR means the internet based software application established by NGR for use by you, located at www.ngr.com.au and which contains the Data Subscriber Account, a Data Subscriber's Grower Details and which forms part of the Register.

NGR means National Grower Register Pty Ltd.

NGR Card means the delivery card issued by NGR to a Grower or Trader carrying a unique Grower Registration Number.

NGR Card Information means the location, card face, Grower Registration Number, Payee or Payees attached to that NGR Card and the percentage split between the Payees attached to that NGR Card (if there are more than one).

Obligation means any obligation, commitment, liability, covenant, undertaking or duty whether arising by operation of law, in equity or by statute and whether expressed or implied.

Operator means any person or entity NGR appoint in writing from time to time to operate the Register and myNGR.

Partnership has the same meaning ascribed to that term by Section 5 of the *Partnership Act (1891) (Qld)*.

Password means the password an Authorised User nominates, in accordance with our requirements for the nomination of passwords, for use with a Data Subscriber Account when an Authorised User seeks access to a Data Subscriber's Account on myNGR, or when making telephone enquiries with NGR which NGR tell a Data Subscriber can only be made with a valid password.

Payee in respect of an NGR Card or Grower Registration Number means a person that is registered by a User on myNGR as having a financial interest in any Agricultural Product delivered or sold under an Approved Dealing in respect of that NGR Card or Grower Registration Number.

Payee Identification Number means a form of identification issued by NGR to a Payee carrying a unique identification number for that Payee on myNGR and the Register.

Payment Details means those parts of the Grower Account that relate to a Grower's bank account and tax status.

Primary Identification Documents means:

- Passport – Australian (can either be current or expired within the last 2 years but must not be cancelled, defaced or mutilated);
- Full Australian birth certificate (or extract) (issued by State/Territory Registry of Births, Deaths and Marriages);
- Australian Licence* - can either be a driver's licence, learner's permit, boat licence or taxi licence;
- Citizenship certificate – Australian;
- 18+ Proof of age card issued by a State or Territory (includes NSW RTA Photo card)*.

* *must contain photograph and signature and date of birth*

Primary Producer means a person, including a Grower, engaged in Primary Production.

Primary Production means the:

- (a) growing, producing or extracting of natural resources, Agricultural Products or other Commodity;

(b) the supply, sale and delivery of natural resources, Agricultural Products or other Commodity.

Privacy Laws means the *Privacy Act 1988* (Cth) and any other legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to the Grower Details and User Contact Details.

Privacy Policy means the privacy policy and procedures implemented by NGR for the collection, storage, use, disclosure and granting of access rights to the Grower Details and User Contact Details.

Proof of Identity Information means the Primary Identification Documents, the Secondary Identification Documents and correct answers to your Security Questions & Answers.

Proscribed Person means:

- (a) A person who is unable to access the Data Subscriber's Account or a Grower's Data because they do not have a Login Name and Password;
- (b) A person who is unable to answer, upon request, Security Questions & Answers;
- (c) A person who no longer has Authority to access a Data Subscriber's Account on the myNGR;
- (d) A person NGR reasonably suspects or who appears to NGR to be acting in breach of these Terms or our Privacy Policy or the Privacy Laws;
- (e) A person who is not an Authorised User nominated by a Data Subscriber and accepted in accordance with our requirements.

RCTI means a recipient created tax invoice in accordance with the GST Law.

Register means the database of Grower Registration Numbers and corresponding Grower Data maintained by NGR.

Re-joining Fee means the re-joining fee set by NGR from time to time and payable by a Data Subscriber at the same time as a Data Subscriber resubmit the Application Form.

Rules means the rules from time to time formulated by the Supplier.

Secondary Identification Documents means:

- Marriage certificate – Australian (issued by State/Territory Registry of Births, Deaths and Marriages);
- Security guard's licence* or Shooter's/Firearms licence;
- Birth card issued by an Australian State/Territory Registrar of Births, Deaths and Marriages*
- Health care card – Centrelink/Department of Veterans' Affairs;
- Identification card issued to a student at an Australian higher education institution (i.e. TAFE or University)*;
- Medicare card/Centrelink Pension or Veterans' Affairs Pension Card;
- Working with Children check card (Blue Card) – (QLD, VIC, WA)*;
- Public Service employee ID card;
- Australian Taxation Office (ATO) notice issued within the last 12 months and includes the customer's name and residential address;
- A financial benefits notice issued by the Commonwealth or a State/Territory within the last 12 months and includes the customer's name and residential address (e.g. a notice from Centrelink).

** must contain photograph and signature*

Security Questions & Answers means the pre-arranged security questions that may be asked by NGR when a person wishes to register as a Data Subscriber or access a Data Subscriber Account on myNGR or if a Data Subscriber wish to perform certain functions on myNGR. The correct answers must be provided or the function cannot be performed or that function used, including access to a Data Subscriber Account or Grower Data.

Services means such services including Data as may be provided by NGR to a Data Subscriber from time to time during the term of this Agreement.

Sharefarming Arrangement is one where a person whether on their own account or with others farms land with a view to sharing the proceeds of the farming activity.

Subscription Data means such of the Data to which a Data Subscriber may, with NGR's and a Grower's consent, subscribe on a subscription basis during a Subscription Period.

Subscription Fees means the fees payable by a Data Subscriber for the Subscription Data or other Services subscribed to, which fees are published in the Fees Schedule.

Subscription Period means the period during which a Data Subscriber subscribes to access Data from myNGR or the Register or receives Services from NGR on a subscription basis.

Subsidiary means a wholly owned subsidiary of a Data Subscriber.

Supplier means National Grower Register Pty Ltd or such other entity as National Grower Register Pty Ltd may appoint from time to time and includes its' Operator, Associated Entities, directors, officers, affiliates, employees, agents, contractors, successors and assigns.

Terms means these terms including any schedules or annexures and all amendments to them from time to time.

Trader means a person who engages in the business of buying, selling or trading Grain, Agricultural Product or other Commodity.

Usage Fee means the fee set by NGR from time to time payable by a Data Subscriber and available on request.

User means a person who has Authorisation to act for a Data Subscriber and who is registered as a User of a Data Subscriber on myNGR.

User Contact Details in respect of a Grower means the name, address (postal, residential and business address), telephone number (including mobile telephone number), facsimile number, email address and preferred method of communication of a User of a Grower.

Website means www.ngr.com.au or such other website developed and assigned by us.

15. INTERPRETATION

- 15.1 A reference to "you" and "your" is reference to an Applicant and once registered, a Data Subscriber.
- 15.2 A reference to "We" "us" "our" and "NGR" is a reference to National Grower Register Pty Ltd.
- 15.3 The word "person" includes an individual, a corporation, a partnership, trust or other entity whether incorporated or not.
- 15.4 A reference to a clause, sub-clause, schedule or attachment is, unless the context requires otherwise, a reference to a clause, sub-clause, schedule or attachment to these Terms.
- 15.5 Unless the context requires otherwise, the singular will include the plural and vice versa and any word or expression defined in the singular will have a corresponding meaning if used in the plural and vice versa.
- 15.6 If a word or phrase is defined, a matching word or phrase containing another part of speech has a corresponding meaning, whether or not the word or words in the matching word or phrase commence with a capital letter.
- 15.7 Headings to these Terms are for ease of reference only and will not in any way affect the construction or interpretation of these Terms.
- 15.8 References to currency are references to Australian dollars.
- 15.9 A reference to these Terms is a reference to these Terms as amended from time to time.
- 15.10 The words "in writing" includes any communication sent by letter, facsimile transmission, email or SMS or any other form of communication capable of being read by the recipient.
- 15.11 A reference to a law includes that law as amended, consolidated, re-enacted or replaced from time to time.
- 15.12 These Terms are binding on your executors, administrators and permitted assigns.