

Next Generation Dairy Rebate – Terms and Conditions of Participation

1. Title and purpose

The scheme is called the Next Generation Dairy Rebate (**Rebate**). The purpose of the Rebate is to provide Eligible Suppliers with an incentive to make Approved Investments by providing for an Investment Rebate in circumstances where an Approved Investment leads to New Volumes.

The Rebate is governed by these terms and conditions of participation (**NG Terms**).

2. Definitions

In these NG Terms the following definitions apply:

- **Application Form** means an application form (which must enclose the agreed Production Documents) by which an Eligible Supplier applies to participate in the Rebate, and **Application** means submitting an Application Form to SDA.
- **Approved Investment** means an investment or investments which meet the criteria described at section 5 of these NG Terms.
- **Eligible Supplier** means a Supplier who is eligible to participate in the Rebate according to the criteria described at section 3 of these NG Terms (and, for the avoidance of doubt, includes a Sharefarmer).
- **Fixed Term Supply Commitment** means a Supply Arrangement that has a fixed minimum term and requires the continuous supply of 100% of the Eligible Supplier's Farm Output (unless otherwise permitted under the terms of that Supply Arrangement) for a period agreed between the Eligible Supplier and SDA
- **Investment Rebate** means the rebate on Approved Investments paid to Participants by SDA according to these NG Terms.
- **Letter of Offer** means a formal letter of offer issued by SDA inviting the Eligible Supplier to participate in the Rebate.
- **Milk Payment Terms** means SDA's Standard Milk Payment Terms (available in the Supplier Handbook at www.mgc.com.au/legal) (as amended, varied, re-named, replaced or substituted from time to time) applicable to the relevant Supplier depending on where their Farm is located.
- **New Volumes** means the additional or new Farm Output produced by an Approved Investment.
- **Participant** means an Eligible Supplier who has lodged an Application Form which has been accepted in writing by SDA.
- **Production Documents** means a cash flow budget, balance sheet and details of the Eligible Supplier's Farm Output for the previous 2 financial years and forecast Farm Output for the next 3 financial years, which must be agreed between the Eligible Supplier and the SDA field services manager and submitted by the Eligible Supplier together with the Application Form to SDA.
- **Saputo Dairy Australia** or **SDA** means Saputo Dairy Australia Pty Ltd ABN 52 166 135 486.
- Each of the following terms has the same meaning under these NG Terms as defined in the Milk Payment Terms: **Farm, Farm Output, Insolvency Event, Rectification Notice, Sharefarmer, Supplier** and **Supply Arrangement**.

In circumstances where the Milk Payment Terms are amended, varied, re-named, replaced or substituted such that a term defined in these NG Terms (by reference to the Milk Payment Terms) is no longer defined in the Milk Payment Terms, the defined term in these NG Terms will be understood by reference to the equivalent term in the amended, varied, re-named, replaced or substituted Milk Payment Terms. If there is no equivalent term, or the equivalent term leads to uncertainty or additional cost, expense or burden on either party, the defined term will be understood by reference to the definition in the original Milk Payment Terms at the date on which the Letter of Offer is executed.

3. Eligibility

To be eligible to participate in the Rebate an Eligible Supplier must:

- (a) make an Approved Investment (or enter into a binding commitment to make an Approved Investment);
- (b) submit an Application Form and be issued a Letter of Offer by SDA; and
- (c) enter into (and continue to comply with) a Fixed Term Supply Commitment for the period identified in the Letter of Offer (as agreed with SDA).

For the avoidance of doubt, a Participant will immediately cease to be eligible to participate in the Rebate and to receive any Investment Rebates (whether accrued in full but not yet paid or partially accrued) upon SDA terminating the Rebate in accordance with section 10(a) of these NG Terms.

4. Participation in the Rebate

In order to participate in the Rebate, an Eligible Supplier must:

- (a) agree the Production Documents with the SDA field services manager; and
- (b) submit an Application Form (enclosing the agreed Production Documents) and documentary proof of the Approved Investment to SDA.

SDA will assess the Application and may elect, at its complete discretion, to issue a formal Letter of Offer to the Eligible Supplier. On execution of the Letter of Offer, the Eligible Supplier will become a Participant and a contract between SDA and the Participant will be formed in respect of the Rebate. The contract will comprise the Letter of Offer, these NG Terms, the Fixed Term Supply Commitment, the Production Documents and the Application Form (in descending order of priority in the event of any inconsistency).

Each Participant acknowledges and agrees that SDA is expressly relying on the Participant complying with the Fixed Term Supply Commitment in offering participation in the Rebate to the Participant.

5. Approved Investments

An Approved Investment is:

- (a) a capital investment (or a binding commitment to make a capital investment) in one or more of the following asset classes with the purpose of either commencing dairy farming operations or increasing Farm Output:
 - (i) freehold land (which will comprise part of an Eligible Supplier's Farm);
 - (ii) dairy cows;
 - (iii) permanent water allocation rights (comprising of delivery shares, high reliability and low reliability water); or
 - (iv) major farm infrastructure works; and
- (b) for a minimum of \$100,000.

An Approved Investment must be established to SDA's satisfaction (acting reasonably) by documentary proof provided by the Eligible Supplier. Where possible, SDA's approval to treat an investment as an 'Approved Investment' should be sought by the Eligible Supplier prior to the investment being made (particularly in the case of major farm infrastructure works). SDA has complete discretion (acting reasonably) in determining whether an investment is an 'Approved Investment' for the purposes of the Rebate and these NG Terms.

If an Approved Investment is made by an Eligible Supplier who is a Sharefarmer, the Sharefarmer's actual contribution to the Approved Investment comprises the Approved Investment on which the Sharefarmer will be paid the Investment Rebate.

6. Investment Rebate

The Investment Rebate is an amount (calculated by SDA at its complete discretion) which, in accordance with these NG Terms, may be paid by SDA to a Participant in circumstances where an Approved Investment leads to New Volumes.

The value of the Investment Rebate will be set out in the Letter of Offer and, depending on the New Volumes achieved for the relevant year of the Fixed Term Supply Commitment (as set-out in the Letter of Offer), will be either paid in part, paid in full, not paid at all or paid in full together with an additional payment.

7. Measuring the Investment Rebate

On or around each anniversary of the Fixed Term Supply Commitment, SDA will measure the actual New Volumes achieved against the forecast New Volumes (in the Production Documents), and if the actual New Volumes achieved is:

- (a) equal to or greater than the forecast New Volumes, then the Investment Rebate for the relevant year of the Fixed Term Supply Commitment will be paid in full; or
- (b) less than the forecast New Volumes, then SDA may (in its absolute discretion) decide to pay all, none or part of the Investment Rebate for the relevant year of the Fixed Term Supply Commitment.

The duration of the Investment Rebate, and the timing of any Investment Rebate payments, will be described in the Letter of Offer.

8. GST

The Investment Rebate described in the Letter of Offer is inclusive of any GST payable (if any).

9. Liability

SDA's maximum liability to a Participant in connection with the Rebate is limited to payment of the Investment Rebate (excluding interest) and the Participant agrees to release SDA from any claim howsoever arising in excess of this amount.

In no circumstances will one party be liable to the other for any special, indirect or consequential loss or damage, or for any loss of profits, loss of production, loss of revenue, loss of use, loss of contract, loss of opportunity, loss of goodwill and loss of reputation, whether direct or indirect.

Termination of the Rebate

- (a) SDA may, at its complete discretion, terminate the Rebate by notice to the Participant if:
 - (i) the Participant breaches its Fixed Term Supply Commitment and, where the breach is capable of being remedied, fails to remedy the breach in accordance with the Rectification Notice;
 - (ii) the Participant sells its Farm or any part of the Approved Investment; or
 - (iii) the Participant is subject to an Insolvency Event,in which case the Participant's entitlement to any future Investment Rebate (including any Investment Rebate which has accrued but not yet been paid) will be immediately extinguished.
- (b) The Participant may terminate the Rebate and associated Fixed Term Supply Commitment in accordance with clause 17.3A of the Milk Payment Terms.
- (c) The rights and benefits comprising the Rebate are not transferrable or assignable and are automatically extinguished on sale or lease of an Eligible Supplier's Farm, unless otherwise expressly agreed with SDA.

10. Confidentiality

The parties acknowledge that clause 16 of the Milk Payments Terms apply to the Rebate, and all information provided by one party to the other in connection with the Rebate must be treated as confidential.

11. Milk supply agreement(s)

Nothing in these NG Terms affects the operation of any milk supply agreement or other supply arrangements between a Participant and SDA.

12. Governing Law

These NG Terms and the accompanying documents are governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of Victorian courts.

13. Miscellaneous

All terms, conditions, warranties and representations expressed or implied by statute, common law, equity or the general law are expressly excluded from these NG Terms to the maximum extent permitted by law. Any unlawful provision in these NG Terms will be severed and the remaining provisions will be enforceable. A waiver of a right, power or remedy is only binding if given in writing. The Letter of Offer, these NG Terms, the Production Documents and Application Form constitute the entire agreement between SDA and the Participant in respect of the Rebate.