TERMS & CONDITIONS OF SALE

These general terms and conditions of sale ("**Terms & Conditions**") apply to all orders or requests for services made to Fox and Lillie Rural Pty Ltd (ABN 50 088 273 813) of 33 Norton Drive, Melton, Victoria 3337, (the "**Broker**", "**FLR**", "**we**", "**us**" or "**our**"), by a seller of wool (the "**Vendor**") or by a buyer of wool (the "**Buyer**"), and all services provided by the Broker to a Vendor or a Buyer (as applicable) are subject to the Terms & Conditions set out below.

1. DEFINITIONS

1.1 Definitions

AWEX means the Australian Wool Exchange Limited ABN 35 061 495 565.

AWEX Rules means the rules published by AWEX amended and in force from time to time relating to the conduct of wool trading and electronic data communication and information transfer.

Buyer means the person who makes a bid or other offer which the Broker accepts for the purchase of a Vendor's wool.

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Payment Day has the meaning given in clause 7(a).

RWS means the Responsible Wool Standard established and published by the non-profit organisation Textile Exchange.

Vendor means a wool grower or the owner of wool offered for sale through the Broker.

Wool Classer's Specification means the declaration form completed by the Vendor in conjunction with a wool classer engaged by the Vendor to classify the Vendor's wool to be offered for sale, and which sets out the total number of bales offered for sale, the wool classification / description for each numbered bale, the Vendor's details and the wool classer's details.

1.2 **Interpretation**

Words imparting the masculine gender only shall include the feminine gender, and vice versa.

2. SERVICES

2.1 The Broker offers wool for sale in accordance with the AWEX Rules.

If there is any inconsistency between the AWEX Rules and these Terms & Conditions, these Terms & Conditions will prevail.

2.2 The Broker provides services to Vendors, including:

(a) acting as selling agent for Vendors who wish to sell their wool through the Broker, whether by auction, private treaty or other selling method;

(b) acting as agent for the Vendor in the storage and handling of wool offered for sale through the Broker prior to the sale of the wool; and

(c) providing administrative, handling and associated services to Vendors, including assisting with or facilitating preparation of wool for sale, transportation, testing of wool, insuring against risks to wool offered for sale through the Broker and handling claims, and collecting payments from Buyers of wool sold through the Broker.

2.3 The Broker provides services to Buyers, including acting as agent for the Buyer in the storage and handling of wool after the sale of wool to the Buyer.

3. ACCEPTANCE OF THE TERMS & CONDITIONS OF SALE

3.1 A Vendor shall be deemed to have irrevocably accepted and agreed to be bound by these Terms & Conditions of sale:

(a) by signing a written authority appointing the Broker as agent for the purpose of selling the wool on the terms of these Terms & Conditions or as storage and handling agent;

(b) by delivering to the Broker (either directly or indirectly) a completed Wool Classer's Specification in respect of wool the Vendor wishes to offer for sale through the Broker; or

(c) by delivering wool to the Broker or when the Vendor's wool is otherwise received by the Broker for the purpose of sale through the Broker (whether by auction, private treaty or any other selling method); or

(d) by otherwise instructing or requesting the Broker to perform services or to act as selling agent in relation to the Vendor's wool.

3.2 A Buyer shall be deemed to have irrevocably accepted and agreed to be bound by these Terms & Conditions of sale:

(a) by registering as a bidder or by placing a bid on any lot or making an offer to the Broker for the purchase of any lot of wool (whether at auction, by private treaty or any other selling method); or

(b) by signing a written authority appointing the Broker as storage and handling agent;

(c) by signing a copy of these Terms & Conditions on request by the Broker; or

(d) by otherwise instructing the Broker to perform services in relation to the Buyer's wool.

3.3 The Broker shall make a copy of these Terms & Conditions available to every Vendor and Buyer and shall, on request, furnish additional copies electronically or in hard copy. Each party acknowledges that it has reviewed or had the opportunity to review these Terms & Conditions prior to acceptance.

3.4 The Broker may from time to time amend, vary or replace these Terms & Conditions by giving not less than 30 days' prior written notice to Vendors and Buyers to whom the Broker provides services before such variation will take effect. By continuing to engage the Broker after the effective date of such variation, a Vendor or Buyer (as applicable) is deemed to have accepted the varied Terms & Conditions.

4. AUCTION & BIDDING

The following terms and conditions apply to wool offered for sale through auction:

(a) The Vendor reserves to himself the right of one bid and of releasing any bid without giving any reason for it and, subject to the reservation, the highest bidder shall be the Buyer.

(b) Bidding shall advance by a minimum of one (1) cent per kg.

(c) All bidding will be on a GST exclusive basis.

(d) GST will be added to the sale price after the fall of the hammer (except where indicated to the contrary).

(e) The Auctioneer shall announce the lot number before bidding commences on a lot. Audible bids of not less than one (1) cent shall be accepted. When bidding has ceased, the Auctioneer shall, before the fall of the hammer, announce the price and the Buyer, or the highest bidder in the case of the lot being passed-in.

(f) Re-submitted lots

(i) In the event of the (first) Buyer requesting that a lot which he had bought in error be re-submitted in the Sale Room, and provided that no more than 10 of the succeeding lots have been dealt with, that Buyer shall be released of his purchase and the lot shall be immediately reoffered. Should the first Buyer still be interested in the lot, he shall state his top price and under no circumstances will he be permitted to re-enter the bidding if the price is exceeded, nor will he be entitled to receive the whole or part of the lot by transfer from the ultimate Buyer.

(ii) Further, any other Buyer in the Sale Room may claim the lot at the price stated by the first Buyer when the lot is re-submitted in which case the first Buyer shall have no further interest in the lot.

(iii) The Auctioneer may refuse to accept any bid and shall not be bound to give any reason for such refusal. The Auctioneer shall be the sole judge of who is the highest bidder.

(g) The Auctioneer may request a sold lot to be passed-in or a passed-in lot sold, provided that no more than ten (10) of the succeeding lots in the catalogue have been dealt with.

(h) Reserve price / Lots passed in

(i) No Buyer shall be allowed to claim a lot in the Sale Room at the reserve price declared by the Auctioneer unless the last bidder has refused to advance.

(ii) In the event a lot is passed in, the highest bidder may negotiate with the broker on a lot or declare to the broker his willingness to forego his option any time after the sale or by close of business (5:00pm) AEST on the day of the sale.

(iii) In the event the highest bidder declares to the Broker no further interest to a passed in lot prior to close of business (5:00pm) AEST on the sale day, other Buyers shall immediately be allowed to bid on the Reserve Price declared by the Broker.

5. PROPERTY AND RISK, INSURANCE

5.1 **Property and risk prior to sale**

Property and risk in the wool offered for sale through the Broker shall remain with the Vendor until the time that title and risk pass to the Buyer in accordance with clause 5.2.

5.2 **Property and risk on sale**

(a) Title to and risk in wool sold by physical auction shall pass to the Buyer on the fall of the hammer.

(b) Title to and risk in wool sold by electronic change of ownership (including Auctions Plus Wool) will pass on to the Buyer upon electronic notification from the Broker to the Buyer.

(c) In each case, the Buyer is responsible for arranging and taking out insurance to cover all risk of loss and damage to the wool from the time that risk passes to it.

5.3 **Broker's insurance**

(a) Notwithstanding risk in the wool remains with the Vendor until such time as title and risk transfers to the Buyer in accordance with clause 5.2, subject to clause 5.4 the Broker in its own capacity shall hold and maintain its own policies of insurance to cover the usual and customary risks associated with its business operations, including:

(i) where the Vendor has appointed the Broker in accordance with clause 3.1, to insure the Vendor's wool that is offered for sale through the Broker against all loss or damage to the wool from the time the wool is shorn until title and risk passes to the Buyer in accordance with clause 5.2, however for the avoidance of doubt, the Broker's insurance does not cover risk of loss or damage to the Vendor's livestock; and

(ii) where the Broker acts as a bailee, to insure against risk of loss or damage to wool caused by the Broker's negligence whilst the wool is in the Broker's possession or is stored, held, transported or handled by the Broker in its capacity as bailee.

(b) Subject to clause 5.4 and payment by a party of the applicable charges under clause 9:

(i) if loss or damage occurs to the Vendor's wool in circumstances covered by the Broker's policy of insurance under clause 5.3(a), the Broker will make a claim under its insurance policy; and

(ii) if the claim is accepted by the Broker's insurer and the Broker receives compensation in respect of the loss or damage, the Broker will recompense the Vendor for the loss or damage to the extent of the payout received from the insurer (less any applicable excess or deductions).

(c) The Broker shall charge the Vendor a fee for covering risk of loss and damage to the Vendor's wool. The fee charged by the Broker to the Vendor shall be calculated as a percentage of the gross sale value of the wool (exclusive of GST), and will cover the Broker's costs of arranging and managing the relevant insurance to insure risk of loss and damage to wool including whilst in transit, and the Broker's costs of administration and handling, including costs of making, managing and handling claims, and processing subsequent payments (if applicable). The fee charged by the Broker may be greater than the cost of obtaining and maintaining a policy of insurance in respect of the wool.

(d) The insurance maintained by the Broker is subject to the standard exclusions, limitations and excess or deductibles of the applicable policy.

(e) Any claim on the insurance policy maintained by the Broker is conditional upon compliance by the Vendor and Buyer (as applicable) with their respective obligations under these Terms & Conditions.

(f) Nothing in this clause 5.3 detracts from:

(i) the Vendor's obligation to maintain its own insurance, including to insure against risks to livestock and to insure wool not being offered for sale through the Broker or prior to the Vendor engaging the Broker under clause 3.1; or

(ii) the Buyer's obligation to insure the wool after title and risk has passed to it under clause 5.2.

5.4 **Exclusion of consequential loss**

Notwithstanding any other provision of these Terms & Conditions, and to the maximum extent permitted by law, neither the Broker nor the Vendor or Buyer will be liable for any consequential or indirect loss, or for any collateral, special, incidental, indirect, exemplary or punitive damages of any nature, or for any economic loss, loss of profits or revenue, loss of business, loss of goodwill, loss of opportunity, loss of anticipated savings or expenses, costs of cover, or costs of delay, however caused and based on any theory of liability, for any claims or causes of action arising out of or related to these Terms & Conditions.

5.5 **No agency for insurer**

Nothing in this clause 5 or these Terms & Conditions constitutes the Broker as agent or representative of any insurer, nor does it create any privity of contract between the Vendor or Buyer and the Broker's insurer in respect of the policies of insurance maintained by the Broker, nor that such policies of insurance held by the Broker include the Vendor or Buyer as a beneficiary, an insured or holder of such policy.

6. BUYER DEPOSIT

The Buyer shall, (if required by the Broker) at any time during or after the sale, deposit the Broker's estimated value of the Buyer's purchase and sign a copy of these Terms & Conditions of Sale. The Broker shall not in any case be responsible for any loss or damage occasioned through such deposit not having been required.

7. PAYMENT FOR WOOL

(a) Payment Day

Payment by the Buyer for wool purchased is due on the Friday subsequent to the week in which the wool was sold i.e. at least seven (7) days after the purchase of the wool (**Payment Day**). The payment day (also referred to as the prompt date) is noted on the sale invoice.

(b) Payment Method

Payment by the Buyer must be made by electronic transfer two (2) days prior before the delivery of the wool, or on or prior to the Payment Day whichever is earlier.

(c) Payment Time

Payment shall be deemed to have been made by the Buyer on the day the funds are credited to the Broker's nominated bank account.

(d) Payment Summaries

A complete payment summary must be advised by the Buyer by email to the Broker's Melton office prior to, or on the day, of payment.

(e) Bank Holiday/ Public Holidays

If payment is unable to be made to the Broker's nominated bank account by the Payment Day, due to a bank or public holiday, payment by the Buyer on the next working day is acceptable without penalty.

(f) Late Payments

(i) The Broker shall notify any defaulting Buyer, or the original Buyer if the wool has been transferred, of any late payments.

(ii) The Buyer shall be liable for interest on late payments. Interest shall accrue on late payments for wool purchases and all other charges at the rate advised by the Broker at the commencement of the season.

(iii) If:

A. A deposit has been paid by the Buyer for any wool sold, and

B. The Buyer has not paid for part or all of the wool (Unpaid Goods); then

C. The Buyer forfeits to Vendor, 10% of the deposit equal to the proportion the Unpaid Goods bears to the wool sold; and

D. The Broker may retain the Unpaid Goods and recall them by public auction or private sale without notice to the buyer; and

E. The Buyer is liable to the Vendor and Broker for any damage suffered by the Vendor or Broker by reason of non – payment.

(g) Transferred Lots

If the transferee of any lot (s), transferred in accordance with the rules of the AWEX, does not pay in full for any such lot on or before the Payment Day, then the original Buyer shall be liable to the Broker for the payment and any associated charges.

8. DELIVERY

The Vendor must ensure all wool it offers for sale through the Broker is delivered to the Broker in advance of the proposed sale date.

(a) Delivery – complete lots

(i) Delivery to the Buyer by the Broker shall be by complete lots only

(ii) Each complete lot shall be available for collection from the Broker's storage complex within the storage centre.

(b) Delivery of wool from Broker's store

Subject to all parties meeting their commitments and in particular the payment obligations under clause 7, and subject to the Vendor having delivered the wool to the Broker's store in advance of the sale

(ii) When delivery of wool to the Buyer is called for, the Broker shall give delivery within two (2) clear working days from the receipt of delivery orders and instructions; and

(iii) In the case of wool for delivery to the Buyer's own transport, the Broker shall give delivery within two (2) clear working days from the receipt of delivery orders, provided the carrier gives notice of intended collection on the prior working day.

(c) Mislaid Wool

(i) Without in any way negating the provisions of clause 7 (b) above, if wool is not delivered within three (3) clear working days from the receipt of delivery instructions due to the wool having been mislaid by the Broker or the Vendor, the Buyer shall be entitled to cancel the lot and to cash settlement based on the AWEX's valuation of the market value of the type of wool that has been mislaid, as at the expiry time of the normal delivery period.

(ii) A cancellation fee, at an agreed rate per sale lot or part sale lot involved to cover documentation and other costs, shall also be paid to the Buyer, and interest at an agreed rate shall be added to the number of days between the due date of delivery and when the cash settlement referred to in (i) above is paid.

(iii) All monies payable in accordance sub clauses (i) and (ii) above must be paid within seven (7) days by the Broker if the wool is mislaid by the Broker or by the Vendor if the wool is mislaid by the Vendor.

(iv) If within seven (7) days from the due date of delivery the Buyer has not elected to cancel the lot and accept cash settlement, and the wool is found, the Buyer shall take delivery and refund interest only for the number of days between the due date of delivery and the date on which the Buyer is advised that the wool has been found.

(d) Delivery to designated locations

The Vendor shall bear the expense of the Broker transporting the wool from the Broker's store to any designated locations as specified in the rules of the AWEX.

(e) Delivery at Broker's Store Door

The Buyer may take delivery of wool at the Broker's Store Door and will be entitled to a freight allowance as specified in the rules of the AWEX.

9. CHARGES AND FEES

9.1 **Buyer charges and fees**

Without limitation to any other provision of these Terms & Conditions, the Buyer is liable for and must pay to the Broker on demand the following charges, costs and expenses:

(a) The Broker shall determine and charge the Buyer:

(i) storage charges to be paid by the Buyer to meet costs associated with the post-sale warehousing of wool; and

(ii) cartage, freight and related transport costs incurred by the Broker in delivering the Buyer's wool to any location required by the Buyer; and

(iii) administration and handling charges for the Broker's services relating to the matters described in clauses 9.1(a)(i) and (ii) above.

(b) The Broker shall charge the Buyer for storage and handling wool held in store beyond the Payment Day as follows:

(i) Daily rates to apply will be determined by the Broker.

(ii) The charges will apply from the day after the Payment Day up to and including the day prior to delivery, provided the delivery has been effected as requested.

If delivery is not affected as requested, the Buyer will not be liable for any charges beyond the requested delivery date.

(iii) Storage and associated charges become due and payable in accordance with the Brokers monthly Shipping/Storage Tax Invoice.

(c) The Buyer shall pay the Broker fees for any other costs incurred by the Broker on behalf of the Buyer, the original Buyer will be responsible for paying to the Broker at the request of the Buyer, including, for example countermarking.

(d) If a transferee fails to pay charges incurred, the original Buyer will be responsible for paying to the Broker all charges due.

(e) If the Buyer offers wool for re sale, the pre-sale charges apply will be those agreed between Buyer and the Broker.

(f) Details of any changes to the Broker's charges shall be advised to the Buyer by the Broker giving the Buyer fourteen (14) days from the date of advice to adjust to the revised of charges.

(g) The Broker shall charge the Buyer for any RWS certificate requests. The charge will be determined annually and outlined on our annual Post Sale Charges announcement.

9.2 **Vendor charges and fees**

Without limitation to any other provision of these Terms & Conditions, the Vendor is liable for and must pay to the Broker on demand, or otherwise authorises the Broker to deduct from the proceeds of the sale of wool, the following charges, costs and expenses:

(a) all consignment, cartage, freight and related transport costs incurred by the Broker in delivering the Vendor's wool to the Broker's store or any other location required for sale of the wool;

(b) storage charges in respect of the Vendor's' wool held by the Broker before sale, calculated at the daily rate notified by the Broker from time to time;

(c) the charges for the Broker's services relating to insurance, including administration and handling as described in clause 5.3;

(d) any other fees or disbursements reasonably incurred by the Broker in preparing the wool for sale, including but not limited to testing, pressing, documentation, counter-marking and any regulatory certificates; and

(e) brokerage charges in respect of the Broker's services for marketing and selling the Vendor's wool through the relevant selling channel chosen by the Vendor, with such charges to be determined as a fixed amount per bale.

9.3 **GST**

Except where these Terms & Conditions state otherwise, each amount payable by a party under these Terms & Conditions in respect of a taxable supply by the other party is expressed as a GST exclusive amount and, if GST is payable on a supply, the recipient of the supply must, in addition to the GST exclusive amount, and at the same time, pay to the supplier of the supply the GST payable in respect of the supply.

10. FORCE MAJEURE

A party is not liable for any failure to perform or delay in performing its obligations under these Terms & Conditions of Sale if that failure or delay is due to an event or circumstances beyond that party's reasonable control (including, but not limited to: fire, storm, earthquake, explosion, war, invasion, rebellion, sabotage, labour dispute, labour shortage, pandemics, epidemics, quarantines, embargos and other similar governmental action) (**Force Majeure Event**), and the affected party must promptly notify the other party of the occurrence with details of the Force Majeure Event and use all reasonable endeavours to mitigate the effect of that Force Majeure Event, and for so long as the Force Majeure Event subsists, the obligations of the affected party are suspended to the extent that it is affected by the Force Majeure Event.

11. RESOLUTION OF DISPUTES

(a) Should the Vendor or the Buyer raise a dispute in relation to a sale pursuant to these Conditions, except in the case of a dispute in relation to Clause 13 of these Conditions, the party raising the dispute shall immediately notify the other party or parties to the dispute in writing of the dispute and shall submit a statement containing full details of the disputed matters with that notification, The parties shall use their best endeavours to settle the dispute within twenty one (21) days of receipt of notification.

(b) Failing resolution of the dispute pursuant to Clause 11(a) each party agrees that any dispute arising out of these Conditions shall be dealt with in accordance with Clause 11(c).

(c) Each party agrees that any dispute arising out of these Conditions, excepting for Clause 13shall be settled by arbitration in accordance with:

   (i) The provisions of the AWEX Rules of Arbitration in the case of disputes between parties domiciled in Australia; or

   (ii) The provisions of the Arbitration Agreement of the International Wool Textile Organisation and the competent body of to conduct the arbitration shall be the International Committee, in the case of disputes involving at least one party domiciled overseas.

12. BUYER RECEIPT OF WOOL PURCHASED

Delivery to carrier

Delivery of wool by the Broker from Store to a carrier purporting to receive them on behalf of the Buyer under a delivery order of apparent validity (and the determination of the apparent validity of a delivery order shall be at the sole discretion of the Broker) shall constitute, custody and control of the wool and all risk and responsibility for the wool shall be in the Buyer or its transferee.

13. REPRESENTATIVENSS OF THE SAMPLE – BULK INSPECTION

(a) Sample and bulk inspection

Until twelve (12) noon AEST on the Friday of the sale week the Broker shall give every reasonable facility to the Buyer to examine the bulk bales.

With sale by sample wool the bale shall be opened in the presence of a representative of the Buyer, the Australian Wool Testing Authority Ltd and the Broker, if the Buyer and the Broker cannot reach agreement that the sample or the display bale is representative of the bulk, the matter shall be referred to the AWEX.

(b) Dispute resolutions

Where the dispute arises before delivery the AWEX decision shall be final. Where the dispute has arisen after delivery, in the first instance the matter shall be referred to the AWEX, but after that upon the request of any party of the dispute the appeal may be lodged with the AWEX appeals committee.

14. VENDOR ACCOUNT SALE

The Broker shall not be required to account to the Vendor for the sale price of wool sold until the expiry of the Payment Day or any extension of it or the Broker has received payment from the Buyer for the wool in full, whichever is the later date.

15. RESPONSIBLE WOOL STANDARD

The Broker is not responsible for any RWS Transactions Certificates for growers not in the Genesys group. Group members in Genesys are indicated in the reg i.d field with CU853776. All other license numbers are individually certified and not the Brokers responsibility.

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