

THE COMMONWEALTH OF AUSTRALIA

ABN 24 113 085 695

AND

AUSTRALIAN WOOL INNOVATION LIMITED

ABN 12 095 165 558

STATUTORY FUNDING AGREEMENT 2010 TO 2013

For the purposes of the

Wool Services Privatisation Act 2000

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STATUTORY FUNDING AGREEMENT 2010-13

AGREEMENT dated 2010

BETWEEN The **COMMONWEALTH OF AUSTRALIA** represented by the Department of Agriculture, Fisheries and Forestry ABN 24 113 085 695 (**Commonwealth**)

AND **AUSTRALIAN WOOL INNOVATION LIMITED** ABN 12 095 165 558
Level 30, HSBC Centre, 580 George Street, Sydney NSW 2000 (**Company**)

RECITALS

- A. Woolgrowers, through a plebiscite held in November 1998, endorsed the establishment of a corporation, with a commercial board with skills relevant to its objects, to undertake Research and Development, innovation and other activities for the benefit of woolgrowers. To this end, the Company was established.
- B. The Company is the “research body” declared for the purpose of Division 7 of the *Wool Services Privatisation Act 2000* (Cth) (**Act**) pursuant to section 30 of the Act.
- C. Section 31 of the Act allows the Commonwealth to enter into a contract with the Company. The first contract between the parties came into operation in 2001.
- D. The Commonwealth and the Company have agreed to enter into a further three year contract. The parties agree that this contract replaces the former contract.

AGREEMENT

1. DEFINITIONS

In this Agreement:

‘**Act**’ means the *Wool Services Privatisation Act 2000* (Cth), including any regulations or other instruments made under that Act.

‘**Activities**’ means specific tasks or projects performed as part of a Program.

Note: the definitions of Activities, Outcomes, Outcome Statement, Program, Program Costs and Deliverables have been derived from the *2009-10 Portfolio Budget Statements Constructors Kit* which was issued by the Department of Finance and Deregulation (DOFD) for the May 2009-10 Budget.

‘**Agreement**’ means this document and any schedules and annexures to it.

‘**Agri-Political Activity**’ means engaging in or financing any form of external or internal political campaigning, but does not include an activity required or authorised under the *Corporations Act 2001* (Cth) or another law. Clause 7.6 provides examples of activities which are not considered to be Agri-Political Activity.

Note: Clause 7.9 provides that the Company may seek consultations with the Secretary about whether a proposed activity would amount to engaging in Agri-Political Activity;

‘**Annual Operational Plan**’ means a plan prepared by the Company in accordance with clause 12.

‘**Annual Report**’ means a report prepared by the Company in accordance with Schedule 2.

‘**Business Day**’ means a day on which Australian banks are open for general banking business in the Australian Capital Territory excluding Saturdays and Sundays.

‘**Business Hours**’ means the hours between 9.00 am and 5.00 pm on a Business Day.

‘**Category A Payments**’ mean wool levy payments made in accordance with clause 31 (1)(a) of the Act.

‘**Category B Payments**’ mean Commonwealth Matching Payments for research and development expenditures in accordance with clause 31 (1)(b) of the Act.

‘**Certification Report**’ means a report to be prepared in accordance with clause 17.5.

‘**Company Document**’ means a document in which the Company has intellectual property rights.

‘**Compliance Audit Report**’ means a report prepared in accordance with clause 17.1.

‘**Confidential Information**’ means information for which all the following requirements are satisfied and including but not limited to Levy Payer Information:

- (a) the information is given by one party (the disclosing party) to the other (the receiving party) for or in connection with this Agreement;
- (b) the information is by its nature confidential; or

- (c) before or when the disclosing party gives the information to the receiving party, the disclosing party informs the receiving party that the information is confidential (which may include being by marking a document including the information that is given by the disclosing party to the receiving party as mentioned in paragraph (a) of this definition to the effect that the information is confidential);

but does not include information that:

- (d) is or becomes public knowledge other than by breach of this Agreement or by any other unlawful means; or
- (e) is in the possession of the receiving party without restriction in relation to disclosure before being given by the disclosing party; or
- (f) has been independently developed or acquired by the receiving party.

‘Cost Allocation Policy’ means the policy for allocating the Company’s direct and indirect to its Research and Development Program and Marketing Program as set out in Schedule 3.

‘Department’ means:

- (a) the Department of Agriculture, Fisheries and Forestry; or
- (b) if the Act is administered by a Minister of State other than the Minister - the Department of State administered by the Minister.

‘Director’ means a person who is for the time being a member of the board of directors of the Company.

‘Follow-up Performance Review’ means the review of the Company conducted in accordance with clause 16.1.

‘Fraud Control Plan’ means a plan prepared and maintained by the Company specifying measures to minimise the risk of fraud within the Company in accordance with clause 13.1(b).

‘Funds’ means each of the following:

- (a) Category A Payments;
- (b) Category B Payments;
- (c) income earned or derived from the Category A Payments and Category B Payments;
- (d) the proceeds of the sale or other disposition of assets acquired with the Funds referred to in paragraphs (a), (b) and (c) of this definition.

‘Global Sales Network’ means the sales staff (key account managers) of the Company’s international offices. The Company must not use Funds to fund the Global Sales Network or its activities (in accordance with Clause 7).

‘Government’ means the Commonwealth Government.

‘Guidelines’ means each of the following:

- (a) the National and Rural Research and Development Priorities;
- (b) other priorities or directions communicated to the Company from time to time by the Minister in writing;
- (c) the Levy Principles and Guidelines, being the guidelines for the introduction of new levies or changes to existing levies; and
- (d) any other guidelines relating to the Funds agreed between the parties including those in Schedule 4.

‘Industry’ means the Australian wool industry.

‘Industry Research Body’ means the company declared under the *Wool Services Privatisation Act 2000*.

‘Insolvency Event’ means:

- (a) the Company disposes of the whole or part of its assets, operations or business other than in the ordinary course of business; or
- (b) the Company ceases to carry on business; or
- (c) the Company ceases to be able to pay its debts as they become due; or
- (d) any step is taken by a mortgagee to take possession or dispose of the whole or part of the Company’s assets, operations or business; or
- (e) any step is taken to enter into any compromise or arrangement between the Company and its creditors or a class of them; or
- (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person to the whole or part of the Company’s operations or business.

‘Intellectual Property’ means all copyright and neighbouring rights, and all rights in relation to inventions (including patents), plant varieties, registered and unregistered trade marks, registered designs, Confidential Information (including trade secrets and know-how) and circuit layout rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

‘Intellectual Property Management Plan’ means a plan prepared and maintained by the Company specifying the procedures for management, adoption and commercialisation of Intellectual Property created by the Company in accordance with clause 13.1(c).

‘Levy’ has the meaning given to wool levy in the Act.

‘Levy Payer’ means an entity eligible to vote in a Poll in accordance with Regulation 5 of the Poll Regulations.

‘Levy Payer Information’ means information about a Levy Payer’s name, address or Wool Levy payments, other than information that forms part of a register of shareholders kept by the Company under the *Corporations Act 2001* (Cth).

‘Levy Regulations’ means the Primary Industries (Excise) Levy Regulations 1999.

‘Marketing Activities’ means activities intended to promote wool fibre and product benefits and attributes to consumers and trade customers. It includes product marketing but does not include research and development.

‘Marketing Program’ means the Marketing Program developed in accordance with Schedules 3 and 4.

‘Minister’ means the Minister having responsibility for the Act and includes a delegate of the Minister.

‘Nomination Committee’ means a committee established by the board along the lines of Recommendation 2.4 of the *ASX Corporate Governance Council’s Corporate Governance Principles and Recommendations, Second Edition, August 2007* (but having a majority of members who are not Company Directors) and with responsibilities for recommending to the board necessary and desirable director competencies and candidates with the necessary competencies to stand for election.

‘Outcome’ means the intended result, consequence or impact of the Company’s actions.

‘Outcome Statement’ means a statement which articulates the intended result, consequence or impact of the Company’s Programs and the target group. It serves three main purposes within the Program Framework to:

- (a) specify the purposes for which funds are being expended by the Company;
- (b) provide a basis for the development of Strategic and Annual Operational Plans; and
- (c) measure and assess the performance of Company programs in contributing to the planned outcomes.

‘Performance Review’ means a review (conducted in accordance with clause 16) of the Company’s performance against its plans that takes into account:

- (a) the performance of the Company in meeting its obligations under this Agreement; and
- (b) the implementation of the Company’s Strategic, Annual Operational, Risk Management, Fraud Control and Intellectual Property Management Plans; and
- (c) the effectiveness of the Company in meeting the various targets and budgets set out in those Plans; and
- (c) the delivery of the benefits to woolgrowers and the Australian community generally as foreshadowed by those plans; and
- (d) any other matters required to be covered by the Minister.

‘Performance Review Report’ means a report prepared in accordance with clause 16.2(a).

‘Personal Information’ has the same meaning as in the *Privacy Act 1988* (Cth).

‘Poll’ means a poll to be conducted in accordance with the Poll Regulations the most recent being WoolPoll 2009 (extract included in Schedule 3).

‘Poll Regulations’ means the Wool Services Privatisation (Wool Levy Poll) Regulations 2003 (Cth).

‘Program’ means a group of activities that delivers services or benefits to the Industry and/or the community as a whole, with the aim of achieving a planned outcome.

‘Program Cost’ means the total cost of all activities attributable to a Program comprising both direct costs and indirect costs in accordance with the Cost Allocation Policy.

‘Program Deliverables’ means the services or benefits derived from activities funded within a Program.

‘Program Framework’ means the framework set out in Schedule 5 to this Agreement based on the Department of Finance and Deregulation (DOFD) “Outcomes and Programs Framework”.

‘RDCs’ means the statutory research and development corporations which operate under the *Primary Industries and Energy Research and Development Act 1989* (Cth) and the declared agricultural industry owned companies operating under statutory funding agreements with the Commonwealth.

‘Research and Development’ means systematic experimentation or analysis in any field of science, technology, economics or business (including the study of the social or environmental consequences of the adoption of new technology) carried out with the object of:

- (a) acquiring knowledge that may be of use in achieving or furthering an objective of the Industry, including knowledge that may be used for the purpose of improving any aspect of the production, processing, storage, transport or marketing of wool or wool products; or
- (b) applying such knowledge for the purpose of achieving or furthering such an objective.

‘Research and Development Activity’ means an activity that:

- (a) is carried out by the Company or with its support for the purposes of Research and Development; and
- (b) relates to the Australian and International Wool Industry and is for the benefit of the Industry and the Australian community generally.

Note: Examples of activities which may be Research and Development Activities are described at clause 7.2.1.

‘Research and Development Program’ means the Research and Development Program developed in accordance with Schedules 3 and 4.

‘Reviewing Organisation’ means an organisation agreed between the Department and the Company to undertake the Follow-up Performance Review.

‘Risk Management Plan’ means the plan to be prepared and maintained by the Company specifying the measures to be implemented to manage its material commercial, legal and administrative risks in accordance with clause 13.1(a).

‘Secretary’ means the Secretary of the Department.

‘Skills Based Board’ means a board which can demonstrate collective expertise against each of the following:

- (a) corporate governance;
- (b) wool growing;
- (c) wool processing;
- (d) product promotion and retail marketing;
- (e) domestic and international market development and international trade;
- (f) R&D, technology, technology transfer, commercialisation and adoption of R&D and innovation;
- (g) conservation and management of natural resources;
- (h) administration of research and development; and
- (i) finance and business management.

Note: it is expected that the skills required to effectively manage the Company would be reviewed by the Nomination Committee before each selection process.

‘Strategic Plan’ means a plan prepared by the Company in accordance with clauses 12(1) to 12(3).

‘Unmatched Research and Development Excess’ has the same meaning as in subsection 31(8B) of the Act.

‘Wool Levy Funds’ has the same meaning as Category A Payments as described in Division 7 of Part 2 of the Act.

2. TERM AND OPERATION OF AGREEMENT

2.1 The term of this Agreement is for three years commencing on 1 July 2010.

2.2 The Commonwealth and the Company must, by 1 July 2013, negotiate in good faith the renewal of this Agreement for a further term of three years either on the same terms and conditions or on varied terms and conditions, as agreed between the Commonwealth and the Company.

2.3 In negotiating the renewal of this Agreement, the outcomes of the latest Performance Review shall be taken into account.

3. THE CONSTITUTION

3.1 The Company must:

- (a) consult with the Commonwealth on proposed changes to its constitution to ensure that it remains appropriate to a body performing the functions of the Industry Research Body;
- (b) give the Commonwealth a copy of each notice of a motion to modify the Company's constitution, at the same time as it gives notice of the motion to its shareholders; and

- (c) as soon as practicable after any modification of the Company's constitution is made, give the Commonwealth notice setting out the modification and explaining its effect.

3.2 The Company must do all things necessary to remain representative of the Industry's marketing and research and development interests.

3.3 The Company must use reasonable endeavours to ensure Levy Payers who are not shareholders are advised of their entitlements to become, and how they may become, shareholders of the Company.

4. BOARD CORPORATE GOVERNANCE

4.1 The Company should implement a framework of good corporate governance practices in managing and investing the Funds drawing on the *ASX Corporate Governance Council's Corporate Governance Principles and Recommendations, Second Edition, August 2007*, as appropriate. In particular, the Company should aim:

- (a) to structure its board to add value as outlined in Principle 2 of the abovementioned ASX Corporate Principles and Recommendations;
- (b) for the establishment of a Skills Based Board recommended by a Nomination Committee (subject to retirement and election requirements under the company's Constitution); and
- (c) to set in place processes for evaluating the performance of the board and its committees.

4.2 The Company must report to the Minister, or his or her delegate, in the six-monthly meetings held under clause 14.2 on steps taken to improve Board corporate governance in accordance with clause 4.1.

5. PAYMENT OF FUNDS

5.1 In consideration for the Company agreeing to assume certain obligations as specified in this Agreement, the Commonwealth must, subject to this Agreement, pay the Wool Levy Funds and Commonwealth Matching Funds to the Company.

5.2 The Commonwealth must pay the Wool Levy Funds to the Company in accordance with Clauses 1.1 and 1.2 of Schedule 1.

5.3 The Commonwealth Matching Funds will be an amount equal to 50% of the amount already spent by the Company on Research and Development Activities, provided that amount:

- (a) does not exceed, in a financial year, 0.5% of the amount determined by the Minister to be the gross value of eligible wool produced in Australia in the financial year, as determined under section 31(7)(a) of the Act; and
- (b) does not exceed an amount calculated in accordance with section 31(6) of the Act.

5.4 For the purposes of clause 5.3, Unmatched Research and Development Excess will only be included in the amounts already spent by the Company on Research and Development Activities in the financial year immediately following the financial year in which the Unmatched Research and Development Excess arose.

5.5 The Commonwealth must pay the Commonwealth Matching Funds to the Company in accordance with Clauses 1.3 to 1.5 of Schedule 1.

5.6 For the purposes of section 31(7)(b) of the Act, an activity qualifies as a research and development activity if it is a Research and Development Activity.

5.7 The Commonwealth may either invoice the Company for, or deduct from the payments to be made to the Company, any reasonable expenses incurred by the Commonwealth in connection with:

- (a) collection and recovery of Levy; or
- (b) any changes to the Act, the Levy Regulations or this Agreement initiated by the Company or the Industry,

subject to any budget that may be agreed between the Commonwealth and the Company.

5.8 The Commonwealth must provide to the Company prior to the commencement of each financial year an indicative, non-binding, budget and plan for the following financial year in relation to the Commonwealth collection and recovery of Levy.

6. MANAGEMENT OF FUNDS

6.1 The Company must establish such accounting systems, procedures and controls as are necessary to ensure:

- (a) the Funds are used only in accordance with this Agreement;
- (b) all dealings with the Funds are properly authorised, conducted and accounted for; and
- (c) an auditor is able to readily verify that the Funds have been used only in accordance with this Agreement.

6.2 The accounting systems, processes and controls to manage the Funds established in accordance with clause 6.1 are required to take into account the Risk Management and Fraud Control plans developed under clauses 13 (a) and (b).

6.3 The Company must notify the Commonwealth, on request, of the details of the systems, procedures and controls established in accordance with paragraph 6.1.

6.4 The Company must:

- (a) keep complete and detailed accounts and records of receipt, use and expenditure of the Funds in accordance with good accounting practice including all applicable Australian accounting standards;
- (b) keep the accounts and records referred to in paragraph (a) separately in relation to Category A Payments and Category B Payments;
- (c) keep accounts and records in relation to the Funds identifiably separate from other accounts and records of the Company including income and expenditure associated with the Global Sales Network; and
- (d) keep accounts and records to enable reporting on expenditures on the Research and Development and Marketing Programs under Schedule 2.

6.5 The additional systems, processes and controls to meet the requirements of this Agreement must be progressively implemented during the term of this Agreement in accordance with an implementation plan agreed with the Department.

7. APPLICATION OF THE FUNDS

7.1 The Company must only spend Funds in accordance with Section 31 (2) of the Act which requires that:

- (a) Category A Payments be spent on research and development activities, other activities or both for the benefit of Australian woolgrowers; and
- (b) Category B Payments be spent on research and development activities for the benefit of Australian woolgrowers and the Australian community generally.

Note: the outcome of the 2009 Wool Poll was that both marketing and research and development activities are to be funded as set out in clause 7.3.

Note: Funds must not be used to fund the Global Sales Network or its activities. If cash flow (in Australian dollars) to the network is significantly reduced as a result of adverse international market conditions, the Company may consult the Department over the possible application of Category A payments to the Global Sales Network.

7.2 Category B Payments must only be paid to the Company to reimburse the Company for amounts already spent by the Company on Research and Development Activities.

7.2.1 Research and Development Activities: examples of activities which may be determined to be Research and Development Activities include:

- (a) the development of workforce skills, education and the training of people to undertake Research and Development and apply the outcomes;
- (b) the building of strong research and development leadership capacity and encouraging diversity of people across the Industry;
- (c) the investigation and evaluation of the requirements for Research and Development and, on the basis of such investigation and evaluation, the preparation, reviewing and revising of Research and Development plans;
- (d) the carrying out, and the coordination and funding of the carrying out, of Research and Development;
- (e) the monitoring, evaluating and the reporting to the Commonwealth and the Industry, on Research and Development;
- (f) facilitating the dissemination, adoption and commercialisation of the results of Research and Development or of practices or technological developments that have been designed or adapted to improve the operation or efficiency of the Industry;
- (g) the dissemination of information related to any aspect of Research and Development, whether electronically, by print or by any other means;
- (h) improving the accountability for expenditure on Research and Development activities in relation to the Industry;
- (i) the development in the Industry of an awareness of the contribution that can be made by Research and Development in improving its efficiency and competitiveness;
- (j) the collection of statistical information on the Industry;

- (k) such other activities as may be approved by the Commonwealth in writing from time to time;
- (l) engaging directors, employees, consultants and agents of the Company and in meeting administration, operating or capital expenses (including, but not limited to, lease costs, legal and other professional expenses and the cost associated with the conduct of the Wool Poll) reasonably necessary or appropriate to be incurred by the Company to support its activities in relation to paragraphs (a) to (k); and
- (m) any activity incidental but considered important to an activity referred to in paragraphs (a) to (l).

7.3 The Company must plan to spend the Funds in a manner that is consistent with the:

- (a) voters' agreement in the 2009 Wool Poll of 50 per cent of expenditure on Marketing Activities, 30 per cent on on-farm Research and Development activities and 20 per cent on off-farm Research and Development activities. This does not preclude the Company from spending funds to address issues which may emerge between Polls. Any significant changes to Company activities should be dealt with in consultation with the Minister;
- (b) Company's strategic plan;
- (c) Company's Annual Operational Plan; and
- (d) Guidelines; and

must apply the Funds in a manner that is otherwise efficient, effective and ethical. Where the Company has doubts as to whether a proposed expenditure complies with this requirement, advice should be sought from the Department.

Note: the requirement to apply the Funds efficiently, effectively and ethically is derived from the *Financial Management and Accountability Act 1997* (Cth) which requires that chief executives manage their agencies in a way that promotes the proper use of the Commonwealth resources for which they are responsible. The "proper" use means that the use is not inconsistent with the policies of the Commonwealth. Guidance on the interpretation of these particular terms can be found on the Department of Finance and Deregulation's web-site (www.finance.gov.au). For example Financial Management Guidance 14 states "Ethical behaviour encompasses the concept of honesty, integrity, probity, diligence, fairness, trust and consistency. Ethical behaviour includes avoiding conflicts of interest, and not making improper use of an individual's position".

7.4 The Company must not engage in, or use the Funds for, Agri-Political Activity. To avoid doubt, the Company must only spend the Funds on Marketing and Research and Development Activities. This does not include activities promoting itself as an Industry representative body or referencing information from which stakeholders would assume the Company is an Industry representative body.

7.5 The Commonwealth may vary Guidelines (a) and (c) covering the National and Rural Research and Development Priorities and the Levy Principles and Guidelines provided that it gives the Company such a period to implement the variations to the Guidelines as the Commonwealth, after consulting with the Company, and taking into account such consultations, considers reasonable in the circumstances.

7.6 Agri-Political Activity for the purposes of this Agreement does not include any of the following:

- (a) subject to the *Corporations Act 2001* (Cth) and the general law, the Company, or an officer of the Company;

- (i) recommending a candidate for election to the board of the Company; or
 - (ii) making statements or providing information to the Industry on matters related to the Company's objects in the proper performance of the Company's functions and the proper furtherance of its objects;
- (b) use by another person, for political purposes, of a report or other publication prepared or financed by the Company in accordance with this Agreement; and
 - (c) the use by an officer of the Company or an employee of the Company of his or her own funds to conduct a campaign for election to the board of the Company or any entity engaging in Agri-Political Activity, provided no Funds are used for that purpose.

7.7 The Company shall not spend the Funds on making payments to Industry representative bodies which are established for the purpose of, or are substantially engaged in, Agri-Political Activity.

7.8 Clause 7.7 does not preclude:

- (a) payments by way of membership fees where that membership contributes to the Company pursuing its objects; or
- (b) payments on an arms-length value for money basis from Industry representative bodies to fund Research and Development or Marketing Activities; and
- (c) cost of consultation with, or contribution toward consultation by, an Industry representative body official including travel and accommodation expenses.

7.9 Where the Company has any doubt about whether an activity may constitute an Agri-political Activity it must consult with the Secretary as to whether a proposed expenditure would amount to engaging in Agri-Political Activity and hence be in breach of this Agreement.

8. SUSPENSION OR TERMINATION OF FUND PAYMENTS

8.1 If the Commonwealth is not satisfied that any activities (including, but not limited to, Research and Development Activities) carried out by the Company benefit Australian woolgrowers and/or the Australian community generally, the Commonwealth may, by giving written notice to the Company, require the Company to provide an explanation of how any activities specified in the notice are for the benefit of Australian woolgrowers and/or the Australian community generally, within 7 days of receipt of the notice. The Commonwealth may:

- (a) consult Industry representative bodies on any explanation received from the Company; and/or
- (b) publish the written notice and the Company's explanation.

8.2 Subject to clause 8.3, the Commonwealth may, by giving written notice to the Company, immediately:

- (a) suspend or terminate payment of any or all of the Funds;
- (b) suspend or reduce the amount of a payment of the Funds that would otherwise be made;

- (c) direct the Company to deal with all or any of the Funds in a certain way; and/or
- (d) terminate this Agreement

if:

- (e) an Insolvency Event occurs; or
- (f) the Company is in breach of its obligations under this Agreement or the Act including:
 - (i) its obligations under clause 7.3 to spend the Funds efficiently, effectively and ethically; or
 - (ii) a failure to provide a satisfactory report or explanation under clause 15.1; or
 - (iii) a failure to take associate remedial action arising from the clause 15.1 report or explanation; or
 - (iv) failure to rectify the breach;

and:

- (v) the Company has not either provided a satisfactory report and undertaken remedial action within the time specified; or
- (vi) rectified the breach within 28 days of receiving notice of the breach; or
- (g) the Company fails to provide an explanation satisfactory to the Commonwealth under clause 8.1; or
- (h) the Commonwealth considers that it is appropriate because of a change to the Constitution of the Company; or
- (i) the declaration of the Company under the Act as the Industry Research Body is revoked; or
- (j) there is a change in Government policy relating to the raising or spending of the Levies or the payment or spending of Commonwealth Matching Funds.

8.3 The Commonwealth shall not issue a notice under clause 8.2 for a ground stated in clause 8.2 (i) or (j) unless the Commonwealth has first:

- (a) given the Company six months prior written notice of its intention to issue a notice under clause 8.2 (i) or (j); and
- (b) had regard to any matters raised by the Company in response (including, but not limited to, matters related to any long term commitments of the Company).

9. REPAYMENT OF FUNDS

9.1 Subject to clause 9.3, if any part of the Funds has been used or expended by the Company otherwise than in accordance with this Agreement, the Commonwealth may, by written notice to the Company, require the Company to repay, and the Company must repay, the amount that has been used or expended by the Company otherwise than in accordance with this Agreement to the Commonwealth by the time specified in the notice.

9.2 If this Agreement is terminated under clause 8.2, the Commonwealth may, by notice to the Company, require the Company to repay to the Commonwealth, by a time specified in the notice, all or any part of the Funds held by the Company at the time of the notice (other than any part of the Funds so held required by the Company in order to meet liabilities of the Company properly incurred in relation to an activity of the Company referred to in clause 7.1).

9.3 The Commonwealth shall not issue a notice under clause 9.1 (the proposed notice) unless:

- (a) the Commonwealth has first given the Company a notice (the show cause notice) requiring the Company, within a reasonable period specified in the notice, to show cause why the proposed notice should not be given; and
- (b) either:
 - (i) the Company does not respond to the show cause notice within the specified period; or
 - (ii) having regard to the Company's response to the show cause notice, the Commonwealth still considers that the proposed notice should be given.

9.4 The Company shall repay Funds to the Commonwealth in accordance with a notice under clauses 9.1 or 9.2 as a debt due to the Commonwealth.

9.5 If the Company repays Funds to the Commonwealth, the Commonwealth must either pay those Funds to another body that is declared under the Act to be the Industry Research Body under the Act or otherwise apply those Funds for the benefit of Australian woolgrowers.

10. POLLS

10.1 The Commonwealth shall provide the Company monthly with complete and accurate information on Levy payments received in an agreed format within a reasonable timeframe from the end of the month in which the Levy payments are received.

10.2 The Company must maintain and update a record of:

- (a) the name (which may be a business name) and address of each person who would be eligible to vote at that time on a Poll pursuant to the Poll Regulations; and
- (b) the voting entitlements of each such person on a Poll pursuant to the Poll Regulations;

to the extent such voting entitlements arise from the payment of Levy on or after the Conversion Time.

10.3 The Company must conduct a Poll in 2012 in line with the process outlined in the Poll Regulations.

11. ACCESS TO RECORDS AND USE OF INFORMATION

11.1 The Company permits the Commonwealth, the Auditor General and any duly authorised representatives (representatives) acting reasonably, for the purpose of monitoring compliance by the Company with this Agreement and the Act:

- (a) to inspect any premises occupied by or under the control of the Company during Business Hours and, at all other times, on reasonable notice in writing, such notice to be addressed to the Company Secretary and a separate notice addressed to the Chief Executive Officer or Managing Director; and
- (b) to examine and copy the Company's accounts and records relating to this Agreement and the Act.

11.2 The Company must provide access to all its accounts and records relating to this Agreement and the Act and otherwise co-operate fully with the requests of the Commonwealth or its representatives to enable the Commonwealth or its representatives to exercise its rights under clause 11.1.

11.3 Without limiting clause 11.2, the assistance which the Company must provide includes, as appropriate:

- (a) providing documents or information; and
- (b) making available relevant personnel of the Company to provide information or answer questions on any matter that relates to the Company's obligations under this Agreement or the Act.

11.4 Each party must, in respect of Confidential Information given by the other party:

- (a) use that Confidential Information only for the purposes of administering or enforcing this Agreement, the Act or the *Primary Industries Levies and Charges Collection Act 1991*(Cth); and
- (b) not disclose that Confidential Information to any person without the prior approval in writing from the other party and subject to any reasonable conditions or restrictions imposed by the other party in giving its approval;

provided that a party will not be in breach of this clause to the extent that it is legally obliged to make a particular use or disclosure of the Confidential Information.

11.5 The Commonwealth will not be in breach of clause 11.4 in respect of Confidential Information given by the Company and held by the Department where a request is made by Parliament (including a committee of Parliament) for that information to be given to Parliament, provided that the Department notifies Parliament of the confidential nature of the information and requests Parliament hold and deal with that information on an *in camera* basis.

11.6 Subject to clauses 11.4 and 11.5, the Company grants the Commonwealth a licence to use the copyright in any Company Document provided to the Commonwealth under this Agreement in any way for any purpose of the Commonwealth. This clause 11.7 does not amount to an assignment of copyright.

11.7 The parties agree that all Personal Information is to be treated in accordance with the relevant provisions of the *Privacy Act 1988* (Cth).

12. STRATEGIC PLAN AND ANNUAL OPERATIONAL PLAN

Strategic Plan

12.1 The Company's must provide to the Minister by September 2010 a Strategic Plan prepared in compliance with this Agreement. The Strategic Plan must cover a three year period.

The Company must:

- (a) review and, if necessary, update the Strategic Plan by 30 June each year;
- (b) work with the Department to ensure that its Strategic and Annual Operational plans meet the requirements of the Program Framework as set out in Schedule 4 before the expiry of this Agreement; and
- (c) make the Strategic Plan generally available to Levy Payers and Industry representative bodies

12.2 The Strategic Plan should be prepared in accordance with good planning practice and with the Program Framework and should cover issues such as:

- (a) the Company's vision or mission;
- (b) the objectives and priorities of the Company for the delivery of Marketing and Research and Development services to Industry for the period of the plan;
- (c) an assessment of the Company's operating environment, including current and future trends, strengths, weaknesses, threats and opportunities;
- (d) planned outcomes from expenditures of the Funds;
- (e) the Programs the Company intends to adopt in order to achieve its outcomes;
- (f) key deliverables which contribute to achieving the planned outcomes;
- (g) performance indicators that enable progress being made towards achieving the planned outcomes to be monitored and reported upon annually;
- (h) collaboration with other RDCs on priority research and development issues;
- (i) how the activities to be funded align with, and give effect to, the Guidelines including any directions from the Minister;
- (j) consultation with Industry and an explanation on the extent to which Industry priorities are reflected in the plan;
- (k) the degree of consistency of the Company's expenditures of the Funds with the National and Rural Research and Development Priorities;
- (l) estimates of income and expenditure for the life of the plan including broad estimates of expenditures across the Research and Development Program and the Marketing Program for the life of the plan;
- (m) a corporate governance statement: The Government's expectation is that the Company should implement good corporate governance practice in managing and investing the Funds. Guidance on good governance practices is set out in the *ASX Corporate Governance Council's Corporate Governance Principles and Recommendations, Second Edition, August 2007*;
- (n) the corporate governance statement should outline the Company's roles and responsibilities as the declared Industry Research Body under the Act and its associated responsibilities for managing and investing the public monies received from the Commonwealth including:

- (i) the scope of its function as an Industry Research Body in delivering Marketing and Research and Development services for Industry, having regard to the precluded activities set out in clauses 7.4 and 7.7;
- (ii) mutual obligations as partner with the Government in delivering research and development and marketing services to the Industry and the Australian community in general; and
- (iii) fiduciary responsibilities for the custody and investment of the Funds.

12.3 In developing and updating the Strategic Plan the Company must:

- (a) consult the Minister;
- (b) ensure that it consults with Levy Payers and that Levy Payer priorities are reflected in the Strategic Plan;
- (c) hold formal consultations with key Industry representative bodies; and
- (d) comply with the Guidelines.

Annual Operational Plan

12.4 The Company must prior to 1 July each year provide to the Minister a copy of the Annual Operational Plan to implement the Strategic Plan. The Annual Operational Plan should cover issues such as:

- (a) the intended operations of the Company for the next financial year;
- (b) key activities to be funded during the year under the Marketing Program and the Research and Development Program of the Company;
- (c) how the activities to be funded align with, and give effect to the Guidelines including any directions from the Minister;
- (d) key deliverables arising from the activities planned;
- (e) performance indicators which enable the progress being made towards achieving planned deliverables and outcomes to be monitored and reported upon;
- (f) estimates of income and expenditure for the financial year setting out planned expenditures on key activities being funded under the Marketing Program and the Research and Development Program; and
- (g) any other matters the directors consider should be set out in the plan.

12.5 In developing its Annual Operational Plan the Company must consider:

- (a) any directions given by the Minister under this Agreement;
- (b) consistency with community and levy payer expectations when setting Company senior executive and board remuneration packages;
- (c) investments to support the development and implementation of the National Primary Industries Research, Development and Extension Framework;

- (d) collaboration with other RDCs on priority research and development issues; and
- (e) the establishment of a structured evaluation plan for the systematic evaluation of the costs and benefits of Company investments in research and development. In this regard the Company must:
 - (i) participate in any evaluation project established for all RDCs such as the Evaluation Program established by the Council of RDC Chairs; and
 - (ii) increase its expenditure on evaluation of Research and Development projects by an average of 5% a year over the term of this Agreement from a base level agreed with the Department.

12.6 In preparing plans under this clause, the Company must ensure that, during the term of this Agreement, systems, processes and controls are put in place to enable it to deliver the planned outcomes and to meet its reporting obligations under Schedule 2.

12.7 The Commonwealth will treat the plans prepared under this clause as Confidential Information until published by the Company.

12.8 The Company must submit all plans developed in accordance with this clause, and all material variations or updates of such plans, to the Commonwealth within 28 days of the plans or variations being adopted by the Company.

12.9 The Company must report on progress against the plans including against matters set out in clause 12.5 in the six-monthly meetings required under clause 14.2 and in the Annual Report required under Schedule 2.

13. OTHER PLANS

13.1 The Company must maintain and implement the following plans:

- (a) a Risk Management Plan;
- (b) a Fraud Control Plan; and
- (c) an Intellectual Property Management Plan.

13.2 The Company must prepare the plans under this clause in consultation with the Department. The plans must be kept under review and be formally reviewed by the Company at intervals of no more than 3 years and must, within 28 days after a plan (or an amendment to a plan) is accepted by the board, provide the Minister with a copy of the plan or amended plan.

13.3 The Commonwealth will treat the plans as Confidential Information until the plans are published by the Company.

14. REPORTS AND MEETINGS

14.1 The Company must provide the Minister with four copies of an Annual Report prepared in accordance with Schedule 2 at the same time as the *Corporations Act 2001* (Cth) requires an annual report to be provided to Company shareholders.

14.2 The chairperson of the Company, or in his or her absence, his or her nominee (who must be a director of the Company) must meet with the Minister at not less than six-monthly intervals from 1 July 2010, or at any other time requested by the Minister on reasonable notice, to brief

the Minister on Company performance in performing its functions as the Industry Research Body and such other matters as the Minister may require.

14.3 The Company Chief Executive Officer, or his or her nominated representative, must meet with officers from the Department at least once each quarter to discuss matters relating to this Agreement including:

- (a) developments within the Company business;
- (b) the performance against Company plans; and
- (c) the impact of the Government's rural research and development policies on the Company.

14.4 The Company must meet with key Industry representative bodies at not less than six-monthly intervals to:

- (a) review Industry priorities for research and development and marketing investments; and
- (b) report on its performance against its plans.

15. ADDITIONAL REPORTS

15.1 In addition to the reports required under clause 14 and without limiting the Company's obligations under clause 8.1, the Company must give the Minister, within such reasonable period as the Commonwealth specifies, any other report or explanation relating to expenditure of the Funds that the Commonwealth requires from time to time.

15.2 The Company shall report to the Minister within 30 days after any significant matters come to the Company's notice which will or may impact on the Company's ability to achieve the outcomes stated in its plans or comply with its obligations under this Agreement during the relevant financial year.

16. REVIEW OF PERFORMANCE

16.1 *Follow-up Performance Review*

16.1 Recommendation 11 of the 2009 Performance Review Report (the Report) was for a formal review to be conducted in 12 months time to assess the Company's progress in addressing the Report's recommendations (the Follow-up Performance Review): the Company must by August 2010:

- (a) agree the terms of reference of the Follow-up Performance Review with the Minister;
- (b) engage a suitable organisation (the Reviewing Organisation) to undertake the Follow-up Performance Review;
- (c) forward the Follow-up Performance Review Report to the Minister by December 2010; and
- (d) provide the Minister with a detailed board response to the recommendations of the Follow-up Performance Review Report and a proposed implementation plan by the end of January 2011.

Performance Review

16.2 Prior to any Poll the Company must:

- (a) engage an independent organisation to undertake a Performance Review in accordance with the requirements of this Agreement and, prepare a report on all matters of the Performance Review (Performance Review Report); and
- (b) agree the terms of reference of the Performance Review with the Minister to ensure that the Performance Review will meet his or her requirements under the Agreement;

16.3 Following the conduct of the Performance Review the Company must:

- (a) forward the Performance Review Report to the Minister prior to the Poll;
- (b) provide the Minister with a detailed response to the recommendations of the Performance Review Report and a proposed implementation plan including dates and milestones within 28 days of the board's development of a response to the Performance Review Report, being a date within three months of the board's acceptance of the Performance Review Report;
- (c) report to the Minister in the six-monthly meetings required under clause 14.2 of progress being made in implementing the Performance Review Report recommendations;
- (d) publish the Performance Review Report on the Company's website at least 28 days prior to sending out ballot papers in accordance with Regulation 11 of the Poll Regulations; and
- (e) make available a copy of the Performance Review Report to the Levy Payers and Industry representative bodies representing woolgrowers together with the information memorandum and ballot paper as provided by the Poll Regulations.

16.4 The organisation engaged to carry out the Performance Review must be an organisation that has not, within the previous 3 years, carried out any corporate governance reviews, audits or similar reviews of the Company (but this does not prevent an organisation that has merely carried out evaluations of specific projects or the Reviewing Organisation from being so appointed).

17. COMPLIANCE AUDIT REPORT AND CERTIFICATION REPORT

Compliance Audit Report

17.1 The Company must, within 5 months after the end of its financial year, give the Minister a Compliance Audit Report providing an audit opinion on whether the Company has complied with its obligations under clauses 6 and 7 during the financial year. A Compliance Audit Report must:

- (a) be prepared in accordance with relevant Australian Auditing and Assurance Standards; and
- (b) include a review on the efficacy of the accounting systems, processes and controls contemplated by clause 6; and

- (c) indicate whether there is any qualification to the Compliance Audit Report and whether any non-compliances are material. If any non-compliances are, in their opinion, material, provide an explanation of the non-compliance ; and
- (d) include a statement that the Compliance Audit Report has been prepared for the Commonwealth for the purposes of this Agreement and an acknowledgment that the Compliance Audit Report will be relied upon by the Commonwealth.

17.2 A Compliance Report need not include an opinion whether the Funds have been applied for the benefit of Industry, or efficiently, effectively and ethically, or for Agri-Political purposes.

17.3 If in the reasonable opinion of the Commonwealth, the Company is or may be in breach of this Agreement, the Commonwealth may request an audit report or opinion on any matter relevant to the Company's compliance with this Agreement or the Act.

17.4 If the Commonwealth requests an audit report or opinion under clause 17.3, the Company must at its own expense:

- (a) obtain the audit report or opinion from the Company's auditor; or
- (b) if, in the opinion of the Commonwealth, the audit report or opinion cannot be properly given by the Company's auditor, engage another auditor to conduct an audit and give the audit report or opinion; and
- (c) give a copy of the audit report or opinion to the Commonwealth within 14 days after the Company receives it.

Certification Report

17.5 The Company must, within 5 months after the end of its financial year, give the Minister a report signed by the chairperson of the Directors and the Chief Executive Officer or Managing Director of the Company:

- (a) certifying whether the Company has complied with its obligations under the Act and this Agreement during the financial year;
- (b) stating whether, in their opinion, any non-compliances are material; and
- (c) if any non-compliances are, in their opinion, material, giving an explanation of the non-compliance.

18. CONFLICT OF INTEREST

18.1 The Company warrants that, at the date of this Agreement, no conflict exists or is likely to arise in the performance of its obligations under this Agreement.

18.2 If a conflict of interest or risk of a conflict of interest arises in the performance of the Company's obligations under this Agreement, the Company must notify the Minister of that conflict or risk and take steps acceptable to the Minister to resolve or avoid the conflict.

19. ACKNOWLEDGMENT OF FUNDING

Unless otherwise agreed with the Commonwealth, the Company must ensure that all significant publications and publicity by the Company in relation to matters on which Commonwealth Matching Funds were expended acknowledge the provision of the Commonwealth Matching Funds by the Commonwealth.

20. AUTHORISATION OF PERSONS TO ACT

The Minister may exercise any rights or powers of the Commonwealth under this Agreement directly or through an Australian Public Service Employee in the Department who is authorised by the Minister for the purpose.

21. INDEMNITY

The Company indemnifies the Commonwealth and its officers against all expenses, losses, damages and costs (on a solicitor and own client basis and whether incurred by or awarded against the Commonwealth) that the Commonwealth may sustain or incur as a result, whether directly or indirectly, of:

- (a) any breach of this Agreement by the Company; or
- (b) any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of the Company or its officers and employees, except to the extent that the loss or damage was caused or contributed to by the Commonwealth.

22. RELATIONSHIP

This Agreement does not create a relationship of employment, agency or partnership between the parties.

23. FURTHER ACTION

Each party must use its best efforts to do all things necessary or desirable to give full effect to this Agreement, including the execution of any document requested by the Commonwealth.

24. RESOLUTION OF DISPUTES

24.1 A party must not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Agreement (Dispute) unless it has complied with this clause.

24.2 A party claiming that a Dispute has arisen must notify the other party to the Dispute giving details of the Dispute.

24.3 During the 20 day period after a notice is given under clause 24.2 (or longer period agreed to in writing by the parties to the Dispute) each party to the Dispute must use its reasonable efforts to resolve the Dispute.

25. ASSIGNMENT

The Company must not assign this Agreement or any right under this Agreement unless the Company:

- (a) is not in breach of this Agreement;
- (b) obtains the prior written consent of the Commonwealth; and
- (c) ensures that the assignee agrees to be bound by all of that party's obligations under this Agreement.

26. ENTIRE AGREEMENT

This Agreement:

- (a) constitutes the entire agreement between the parties as to its subject matter; and
- (b) in relation to that subject matter, supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party.

27. ALTERATION

Except as expressly permitted under this Agreement, this Agreement may be altered only by an agreement in writing signed by each party.

28. WAIVER

Waiver of any provision of or right under this Agreement:

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

29. SEVERABILITY

Part or all of any provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions of this Agreement continue in force.

30. GOVERNING LAW AND JURISDICTION

30.1 This Agreement is governed by the law applicable in the Australian Capital Territory in relation to matters arising in connection with this Agreement.

30.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

31. NOTICE

31.1 A party giving notice or notifying under this Agreement must do so in writing:

- (a) directed to the recipient's address specified in this clause, as varied by any notice; and
- (b) hand delivered or sent by prepaid post to that address.

The parties addresses are:

Commonwealth:
 The Secretary
 Department of Agriculture, Fisheries and Forestry
 GPO Box 858
 CANBERRA ACT 2600

Company:
 The Chief Executive Officer
 Australian Wool Innovation Limited
 Level 30, HSBC Centre
 580 George Street
 SYDNEY NSW 2000

31.2 A notice given in accordance with this clause is taken to be received:

- (a) if hand delivered, on delivery; or
- (b) if sent by prepaid post, three days after the date of posting.

32 INTERPRETATION

3.1 In this Agreement, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this Agreement and a reference to this Agreement includes any schedules and annexures;
- (e) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (f) a reference to A\$, \$A, dollar or \$ is a reference to Australian currency;
- (g) a reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed;
- (h) a reference to a party includes its executors, administrators, successors and permitted assigns;

- (i) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- (j) a reference to any legislation or statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth); and
- (k) a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form.

3.2 A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.

EXECUTED as an agreement.

SIGNED SEALED AND DELIVERED
for and on behalf of the
COMMONWEALTH OF AUSTRALIA

by the Honourable Tony Burke MP
Minister for Agriculture, Fisheries and Forestry

in the presence of:

Witness Signature

Print Name

SIGNED for and on behalf of **AUSTRALIAN
WOOL INNOVATION LIMITED** (ABN 12
095 165 558):

Signature of director

Name

Signature of director/secretary

Name

SCHEDULE 1**PAYMENT OF FUNDS****1.2 Category A Payments**

The Commonwealth must pay Wool Levy Funds to the Company as soon as reasonably practicable after the Commonwealth receives the relevant payments in cleared funds. Payments to the Company must be made as soon as reasonably practicable after the 15th day and the final Business Day of each month.

1.2 Payment must be by direct deposit or cheque or other method agreed between the parties.

1.3 Category B Payments

The Commonwealth must use its reasonable endeavours to pay the Commonwealth Matching Funds to the Company within 1 calendar month after receiving from the Company a claim for payment, together with evidence reasonably satisfactory to the Commonwealth that the Company has already spent on Research and Development Activities the amount that forms the basis of the claim.

1.4 For the purposes of paragraph 1.3, a certificate signed by the Chief Executive Officer, Managing Director (or equivalent), the Chief Financial Officer or the Secretary of the Company, certifying that the Company has spent a particular amount on Research and Development, is reasonably satisfactory evidence, in the absence of any evidence to the contrary.

1.5 Payment must be by direct deposit or cheque or other method agreed between the parties.

SCHEDULE 2
ANNUAL REPORTS

1. The Annual Report must be in compliance with *Corporations Act 2001* (Cth) financial and other requirements. It also must meet the requirements of this Agreement. Additional information beyond the requirements of the *Corporations Act 2001* (Cth) required to meet the requirements of this Agreement can be provided to the Minister separately if so desired by the Company. The Annual Report should include reasonably comprehensive coverage of:
 - (a) sources of income allowing for separate identification of Category A, Category B Payments and Global Sales Network's income;
 - (b) significant activities and transactions undertaken in the year in the conduct of the Company's functions as the Industry Research Body;
 - (c) progress made in implementing plans, including progress against key performance indicators specified in the Strategic Plan and Annual Operational Plan;
 - (d) collaboration with Industry and other research providers;
 - (e) collaboration with other RDCs to fund research and development (R&D) to address the National and Rural Research and Development Priorities;
 - (f) collaboration with other RDCs to deliver R&D or marketing services in a more efficient and effective manner;
 - (g) expenditures on evaluation and outcomes of the evaluations undertaken;
 - (h) commercialisation;
 - (i) intellectual property creation and protection, including management of intellectual property arising from research and development activities or acquired with Funds;
 - (j) subsidiaries and joint ventures formed;
 - (k) material changes to the Company's membership;
 - (l) how the Company's responded to any directions given by the Minister under the Guidelines;
 - (m) how the Company contributed to the priorities of Levy Payers, the National and Rural Research and Development Priorities and supported the National Primary Industries Research, Development and Extension Framework;
 - (n) income and expenditure including funds spent on the Research and Development Program and the Marketing Program, allowing clear identification of:
 - (i) total expenditure of Commonwealth Matching Funds;
 - (ii) the full cost of the respective Programs (with cost being allocated according to the Cost Allocation Policy);
 - (iii) expenditure against the Wool Poll 50% marketing and R&D split and 20 and 30% off-farm and on-farm R&D respectively; and
 - (iv) Global Sales Network expenditure.

- (o) details of senior executive and board remuneration including that of the Chief Executive Officer;
- (p) research and development agreements entered into by the Company with third parties;
- (q) corporate governance practices in place during the financial year;
- (r) other significant matters notified to the Company by the Minister;
- (s) consultation with Levy Payers and key Industry representative bodies on its Strategic and Annual Operational Plans, and R&D and extension activities; and
- (t) meetings with the Commonwealth under the Agreement.

SCHEDULE 3

COST ALLOCATION POLICY

Key Requirement

A Cost Allocation Policy to allocate costs in a transparent manner between the Marketing and Research and Development Program is required for the effective implementation of the Program Framework. A Cost Allocation Policy including the treatment of the Global Sales Network and a plan for the implementation of the Policy should be agreed with the Department.

Background

Good practice management decision-making is fostered when the programs are clearly defined and their full-costs are routinely generated in a consistent and transparent basis in line with generally accepted accounting principles. The availability of this information fosters efficient resource allocation, informed decision-making and transparency in accounting for expenditures.

Key principles

The following key principles are to be adhered to:

- (a) *all costs for an activity*: all the costs of an activity which is funded under a Program should be allocated to that Program;
- (b) *reasonableness*: a cost allocated to a Program should reflect what a comparative service would be expected to cost in a competitive market;
- (c) *suitable basis*: the basis of a cost should be readily defensible, for example based on the benefit derived, cause or effect of the cost, or other equitable relationship;
- (d) *consistently treated*: like costs must be treated the same in like circumstances;
- (e) *one beneficiary*: if a cost solely relates to one Program outcome, it should be charged entirely to that Program;
- (f) *plural beneficiaries*: if a cost benefits the two Program outcomes:
 - i. costs should be allocated according to the proportion of benefit provided to each of the outcomes. An expenditure that benefited two or more services should not be charged solely to one service;
 - ii. when it is not possible to determine the proportional benefit to each outcome. The cost can be distributed on any reasonable and rational basis that will promote efficient resource allocation. The basis of the allocation should be documented to facilitate audit and review.

Costing Definitions under the Program Framework

1. **Program Costs** means direct and indirect costs of all activities funded under a Program.
2. **Direct Program costs**:
 - (a) Direct program costs are those costs of an activity (or project) that can be directly assigned to a program outcome relatively easily and with a high degree of accuracy. Direct program costs would normally include as part of the cost of an activity, an “overhead” costs component. For example, labour costs would include direct salary costs as well as salary “on-costs” which would be relatively constant for similar employees.

- (b) As well as wages and salaries, direct program costs would include the cost of materials and equipment, consultants, legal services and travel which should all be able to be readily assigned to particular activities within programs.
- (c) It should be possible to readily allocate costs such as telephone charges, computer usage, printing, postage, office supplies and program administrative assistance to particular activities within programs with a high degree of accuracy. In this regard, as a matter of policy:
 - i. all costs for activities funded under a single program area should be identified and allocated to that program;
 - ii. where an activity contributes to more than one program area (a shared activity), costs should be allocated based on the potential contribution the expenditure makes to achieving the respective outcomes ie the ‘user pays principle’; and
 - iii. if it is not feasible to make an allocation based on the potential contribution to outcomes, another suitable methodology should be selected, documented and employed on a consistent basis.

3. Indirect Program cost:

Indirect costs are those for services that benefit more than one program outcome and can include rent, utilities, administrative and finance staff, security, audit, equipment rental, depreciation, maintenance, chief executive officer and board costs. Their precise benefits to a specific program outcome are often difficult or impossible to objectively trace. In the short term indirect costs are usually constant for a range of outputs and there are a number of methodologies which can be employed including to allocate these costs, for example:

- (a) *usage*: costs can be allocated based upon the quantity of a resource used by each program;
- (b) *time*: cost can be allocated based upon the number of hours that a resource is used by each program;
- (c) *space*: accommodation costs can be proportionately allocated based upon the square footage occupied by the respective program staff;
- (d) *clients served*: cost of communications allocated based upon the number of clients served by each program;
- (e) *proposals*: the cost of the Board and chief executive officer allocated based upon the number, value or time taken on proposals developed by each business unit for the Board’s decision;
- (f) *clients served*: the cost of communications allocated based upon the number of clients served by each service;
- (g) *staff*: the cost of renting space allocated based upon the number of full-time employees working on each program.

The basis of the allocation should be documented to facilitate audit and review.

Policy for charging between programs:

The flow of services between programs should be on a transparent fee for service basis. For example, where one program “purchases” services from another program the costs should follow the services provided. This will enable the full cost of the services and of delivering a program to be clearly identified.

The basis of the charging between programs should be document to facilitate audit and review.

SCHEDULE 4**PROGRAM FRAMEWORK GUIDELINES**

Key requirement: these guidelines should be implemented in consultation with the Department during the Company's strategic planning processes since it is critical to establish a program structure which will facilitate proper planning, performance monitoring and reporting.

Introduction: Strategic Planning is the process of determining an organisation's long-term goals and then identifying the best approach for achieving those goals. Annual operational plans (AOPs) translate the strategic plan into annual investment plans and consequently AOPs should just be an "extension" of the strategic plan. It is therefore critical that both plans be in alignment.

Best practices: there are a number of sound planning models across government and not-for-profit sectors some of which have been tailored for particular circumstances. The "Program Framework" has been adopted by the Government to manage and report on the expenditure of Commonwealth monies.

Program Framework: Government budgeting and reporting practices were reviewed in 2008 under *Operations Sunlight* (the Murray Report) to help improve the transparency and quality of Government financial management and accountability processes. The findings of *Operations Sunlight* were incorporated the Department of Finance and Deregulation's (DOFD) "*Outcomes and Programs Framework for the 2009-10 Portfolio Budget Statements*". In essence the government's policy is now to fund "programs" to deliver agreed outcomes, consequently all expenditures should be for activities undertaken within a program in pursuit of an agreed outcome. These Guidelines have been drawn from "*Outcomes and Programs Framework for the 2009-10 Portfolio Budget Statements*" issued by DOFD.

Application to Statutory RDCs: the "*Outcomes and Programs Framework for the 2009-10 Portfolio Budget Statements*" was applied by the government to all statutory RDCs for the first time in the 2009-10 Commonwealth Budget and will flow through to their strategic and annual operation plans and reports.

RDC R&D Program: Statutory RDC expenditure on R&D has been classified by DOFD as being expenditure on an "Advising/Informing Program" with an objective of better informing stakeholders to improve decision-making or altering their behaviour. Consequently all RDC outcome statements were amended by the government in line with this. An important underpinning assumption of an Advising/Informing Program is that the provision of advising/informing services will enable an individual to make judgements about the advice/information provided and act accordingly. The onus, therefore is mainly on the demander of the information to demonstrate the benefits derived. The main role of the RDC to ensure that the information and knowledge provided meets defined Industry needs and is delivered efficiently and effectively.

Application of the Program Framework to the Company: The Company is funded through by the Commonwealth through Special Appropriations made through the Agriculture, Fisheries and Forestry Portfolio. The Minister is accountable to Parliament for the funds appropriated to his Portfolio, including to the Company. Implementation of the Program Framework will assist the Minister to discharge his obligations to Parliament with respect to the expenditure of the funds appropriated to the Company.

Company outcomes: The application of the Program Framework to the 2009 Wool Poll (see Schedule 3) suggests that the Company is pursuing two broad outcomes: the generation of information and knowledge to improve Industry productivity, sustainability etc through investment in R&D and increased demand for wool generated by investment in marketing and promotion. Investments in R&D aligns up well with the statutory RDCs R&D investments and the RDC “outcomes” provide useful guidance. A challenge will be to similarly define a Marketing outcome.

Terminology: The terminology in these guidelines is consistent with those put out by DOFD, and is to be used across all future Statutory Funding Agreements to promote consistency and transparency. The Company may decide to vary the terms in its own plans and reports suit its own particular needs: the *intent* of the Program Framework rather than the terminology is important.

Strategic and Annual Operational Plans: Clause 12 of this Agreement covers a number of requirements relating to the development of the Company’s Strategic Plan and Annual Operational Plan and should be read in conjunction with these Guidelines.

Outcomes statement: “outcomes” are the key statements in the Program Framework and are the results, consequence or impacts of Company expenditures. They explain the purposes of the expenditures, provide a basis for the Government’s budget allocation to the Company and help to assess/measure investment performance. An Outcome Statement should be specific, focused, easily interpreted and:

1. identify the intended Company result(s) with the level of achievement against this intended result(s) being measurable;
2. specify the target group(s) where this group can be identified; and
3. specify the activities to be undertaken that contribute to the achievement of the intended result(s).

A possible R&D outcome statement for the Company (drawn from those of the statutory RDCs might be:

“New information and knowledge the adoption of which enhances the profitability, international competitiveness and sustainability of the Australian wool Industry through investment in research and development.”

It is suggested that during the strategic planning processes that all “outcome statements” be endorsed by key stakeholders including the Minister.

Programs: are what are funded to deliver the “outcomes” and are consequently the primary vehicles for the Company to deliver benefits or services to achieve the intended outcomes. A Program should be shaped and structured around contributing to an intended outcome. An example of a:

- R&D program statement might be “The generation of information and knowledge to foster the viability, productivity and sustainability of the Industry through investment in R&D and extension”; and
- Marketing program might be “Increased demand and market access for Australian wool through well targeted investments in marketing.”

Sub-programs: can be used to differentiate contributions of distinct elements within a program to more clearly articulate the different types of activities which contribute to the broader program. For example, within the Company’s R&D program one sub-program could be off-farm R&D and the other on-farm R&D.

Program cost: this represents the total cost of activities and resources attributable to the delivery, policy development and associated costs of a Program. Clarifying total program costs including “support” provides for transparency of Company operations and improves information available for the Company decision-making and reporting processes. For these reasons Company program costing should be supported by the agreed Cost Allocation Policy as outlined in Schedule 4.

Types of Programs: DOFD has provided a menu of six types of common government programs: R&D falls within the scope of an “Advising/Informing Program”. The associated DOFD program guidelines around Advising/Informing” programs are useful in developing a structured approach to managing performance and reporting and are summarised below.

Advising/Informing Programs: Advising/Informing programs are directed to advising people on an issue in order to alter their behaviours or actions or informing people on a particular topic to improve decisions and choices.

Program Deliverables and Services: for the R&D Program there will be a number of key deliverables funded, for example the deliverable from investment in R&D might be improved ability of the Industry to adapt to climate change.

Performance information and indicators: strategic plan performance indicators should be “strategic” in nature linking to the planned outcomes to be achieved. Annual Operating Plan performance indicators will more likely focus on the deliverables which contribute to advancing the planned outcome. The Annual Report should bring these together demonstrating how the deliverables funded advanced the outcomes. To help achieve this performance information for an advising and informing program might look at such areas as:

- the extent to which the planned deliverables and services were met;
- the effectiveness of the delivery mechanism whether services are delivered by the Company or through a third party;
- whether the deliverables made a contribution to achieving the planned outcome;
- effectiveness of access to information and knowledge provided;
- stakeholder satisfaction, including the extent to which their demands for information and knowledge were met;
- acceptance of advice by the target group including changed behaviour;
- the take-up or adoption of the information; and
- the impact the investments have had on the outcomes sought.

Evaluation Framework: an evaluation framework should be established, inter alia, to:

- ensure that performance related information is generated by the Program Framework is routinely collected and monitored;
- contribute to cost-benefit studies which should be systematically undertaken to provide information on such matters as adoption and impacts of investments; and
- contribute RDC wide evaluation processes include that managed by the Council Rural RDC Chairs.

Performance reviews: key inputs to the three-yearly performance reviews as required by clause 16 of this Agreement will include information on the extent to which planned services and deliverables were met and the outcomes of evaluations completed. A robust Program Framework including an operative evaluation framework will greatly assist this process and foster continuous improvement in the operations of the Company.

Continuous improvement: The government's expectation that there will be continuous improvement in the expenditure of public monies (eg the "plan, do, check, act" continuous improvement cycle of which evaluation and performance reviews are an integral part). Disciplines associated with the application of the Program Framework to the Company's operations will feed into the continuous improvement cycle. Well developed Key Program Indicators with a strong focus on the results being delivered should assist management improvement processes and should feed in to improved annual reporting and performance.