

# SOLE AND EXCLUSIVE EXPORT AGREEMENT SERVICE LEVEL AGREEMENT

**Between the Rice Marketing Board for the State  
of New South Wales and**

**Ricegrowers Limited trading as SunRice**

**For the period 2019 to 2022**

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## Preamble

The objects of the Rice Marketing Board for the State of New South Wales (RMB) include ensuring the best possible returns from rice sold outside Australia based on the quality differentials or attributes of Australian grown rice.

The Sole and Exclusive Export Licence (SEEL) is a licence granted by the RMB under the *NSW Rice Marketing Act 1983*, with a view to achieving that object, that grants the holder the exclusive right to export NSW grown rice.

In exchange for these exclusive export rights, the holder of the SEEL must, among other things, be able to demonstrate to RMB that they achieve export price premiums for NSW rice and must act as buyer of last resort for all NSW-grown rice.

RMB is committed to good corporate governance in how it makes important decisions under the *NSW Rice Marketing Act 1983* and has, as part of that commitment, determined that the processes upon which the public and private sectors rely should be formally, and where appropriate, publicly stated.

The current holder of the SEEL is Ricegrowers Limited, trading as SunRice (SunRice). The SEEL was initially granted to SunRice in 2006 and has been renewed in 2011, 2015 and 2016. The SEEL is currently scheduled to expire on 30 June 2022.

This Service Level Agreement (Agreement) documents the processes, information exchange and reporting requirements expected between the RMB and SunRice to ensure the conditions of the SEEL are met.

A Confidentiality Agreement is in place between the RMB and SunRice to cover the commercial-in-confidence and confidential information exchanged in connection with this Agreement.

## 1. Service Level Agreement

### 1.1. Objective of this Service Level Agreement

1.1.1. The objective of this Agreement is to document the agreed responsibilities of the RMB and SunRice in relation to the operation of the SEEL.

1.1.2. The RMB agrees to:

- a) Consistent with the *Rice Marketing Act 1983*, grant SunRice the sole and exclusive right to export NSW grown rice for the term of the SEEL;
- b) Provide SunRice with adequate time to prepare the monthly and annual information requested of it;
- c) Consult with SunRice on any matters at issue which may affect the Sole and Exclusive Export Agreement dated 28 June 2007 (the SEEL Agreement);
- d) Meet the requirements imposed on it by the *NSW Rice Marketing Act 1983* and other applicable laws;
- e) Meet the requirements of the SEEL Agreement;
- f) Comply with the quality and performance standards specified in this Agreement; and
- g) Recognise the rights provided by the granting of the SEEL.

#### 1.1.3. SunRice agrees to:

- a) Meet the requirements of reporting, information exchange, performance metrics, and compliance and improvement initiatives as outlined in this Agreement;
- b) Be subject to, and cooperate with, operational audits required by the RMB, including by providing all access to information and staff required by the RMB;
- c) Meet the requirements imposed on it by the *Rice Marketing Act 1983* and other applicable laws;
- d) Meet the requirements of the SEEL and SEEL Agreement;
- e) Comply with the quality and performance standards specified in this Agreement;
- f) Recognise the rights provided by the granting of the SEEL; and
- g) Consult with the RMB on any matters at issue which may affect the SEEL Agreement.

### 1.2. Purpose

- 1.2.1. This Agreement is between the RMB and SunRice and relates to the RMB's legal right to control the marketing of rice produced in NSW ("vesting").
- 1.2.2. The purpose of this Agreement is to outline the relationship between the RMB and the holder of the SEEL, and in particular to define the framework for assessing the performance of SunRice, as the SEEL holder, in meeting the licence conditions.
- 1.2.3. This Agreement will provide the RMB's stakeholders, who are primarily the rice growers of NSW, with an insight into the nature of information flows between the RMB and SunRice.
- 1.2.4. A secondary purpose of the Agreement is to inform stakeholders as to the RMB's commitment to addressing any perceived conflicts of interest which may arise by having the elected RMB Members also being appointed as SunRice directors. The SEEL provides for the three grower-elected RMB Members, if they consent and satisfy the requirements of the SunRice Constitution, to be appointed as SunRice directors for the term of the SEEL.

## 2. Roles and Responsibilities

### 2.1. Role and responsibilities of the RMB

- 2.1.1. Single export rights are acknowledged by the RMB as a highly valuable arrangement for any organisation to hold and require a high level of detail to regulate.
- 2.1.2. The RMB's objects, as gazetted on 23 May 2009, are:
  - a) To encourage the development of a competitive domestic market for rice;
  - b) To ensure the best possible returns from rice sold outside Australia based on the quality differentials or attributes of Australian grown rice; and
  - c) To liaise with and represent all NSW rice growers in relation to the RMB's functions and objects.
- 2.1.3. RMB considers the previous grant (and subsequent renewals) of the SEEL were consistent with those objects.
- 2.1.4. The RMB will monitor the operations of SunRice in the international rice market through review of monthly and annual reports from SunRice, and engaging an independent consultant to verify the methodology and calculation of the export price premium and freight scale advantage, with a view to ensuring the continuation (and any future renewal) of the SEEL is also consistent with those objects.



- 2.1.5. The RMB will publish this Agreement and status reports confirming whether the requirements of this Agreement have or have not been met for a specific period, on its website. However, no commercial-in-confidence or confidential information will be published.
- 2.1.6. RMB will ensure that the elected RMB Members that are directors of SunRice are aware of their obligations in relation to making appropriate disclosures, and where required excusing themselves from RMB board decisions, in respect of any act conflict of interest that may arise.
- 2.1.7. At SunRice's request, the RMB will provide documentation to foreign governments in respect of tendering opportunities and certification as to the quality and year of product being exported.

## 2.2. Role and responsibilities of SunRice

- 2.2.1. SunRice will not act in any manner inconsistent with the objectives of the RMB and will conduct its activities relating to export marketing in good faith, having regard to, and satisfying, the conditions of the SEEL. This includes handling NSW rice in a way that maintains the wholesomeness and purity of the rice, in the interests of public health.
- 2.2.2. SunRice will provide monthly written reports on its financial status and grower issues to the RMB.
- 2.2.3. SunRice will provide an annual written report on the performance metrics as listed in 2.3 of this Agreement, in response to an annual request by the RMB within the time period specified in that request.
- 2.2.4. SunRice will provide access (at reasonable times and on reasonable notice) for an independent consultant engaged by RMB to verify SunRice's annual methodology and calculation of the export price premium and freight scale advantage.

## 2.3. Annual performance metrics

SunRice agrees to provide the RMB with information relating to its performance as the SEEL holder throughout the term of the licence, including, but not necessarily confined to, the following:

- 2.3.1. Evidence that SunRice has the global market presence and brand strength to facilitate the sale of the NSW rice crop every year;
- 2.3.2. Evidence that SunRice has the financial strength to purchase and market the NSW rice crop each year and to act as the buyer of last resort for the NSW rice crop, including details of financial performance;
- 2.3.3. Evidence that SunRice has a strategic plan for the marketing of the NSW rice crop that covers at least five years, including research, development and innovation strategies;
- 2.3.4. Quantification of the export price premium and freight scale advantage achieved for the immediately prior financial year and explanation of the methodology used to calculate it; and
- 2.3.5. Evidence that SunRice maintains a high level of corporate responsibility in regard to environmental and social impacts, including consideration of climate change, water saving strategies and evidence of compliance with other domestic and international obligations as required by clause 3.3.

More detailed information will be sought annually from SunRice based on the RMB's requirements for the year in question.

## 2.4. Process for measuring performance

The RMB and SunRice agree to the following process for measuring performance against the SEEL conditions:

### 2.4.1. Verification of the Export price premium and freight scale advantage

SunRice agrees to grant an independent consultant selected and engaged by the RMB, with access to records and staff annually in order to satisfactorily verify the methodology underpinning the export price premium and freight scale advantage as required by the SEEL. The calculation is to be stated in USD/mt.

The RMB will go to tender for the engagement of an independent consultant at least every five years with a view to ensuring the ongoing independence of the consultant carrying out the review.

### 2.4.2. Monthly reporting to the RMB

SunRice agrees to provide a monthly financial report to the RMB including prior month and year to date financial indicators and related commentary.

SunRice agrees to provide an update on grower issues or other matters that may affect its performance when required by the RMB.

The SunRice Chair or other representatives of SunRice may attend a portion of the monthly RMB meetings to update the RMB on SunRice matters.

### 2.4.3. Assessment of performance

After consideration of the independent consultant's report of the verification of the export price premium and freight scale advantage, RMB will note in a board resolution whether it is satisfied SunRice continues to meet the conditions of the SEEL.

## 3. Other Matters

### 3.1. Term of this Service Level Agreement

The term of this Agreement is from the date of the Agreement to the end of the current term of the SEEL.

### 3.2. Improvement Initiatives

The parties will engage with each other in good faith in relation to continual improvement initiatives proposed by either party which would either:

- 3.2.1. Increase the revenue achieved from the export of rice; or
- 3.2.2. Increase the returns to rice growers from such exports.

### 3.3. Legal Compliance

3.3.1. The parties acknowledge that it is critically important for the continued reputation and marketability of Australian rice, and achievement of an export price premium, that all marketing of New South Wales grown rice occurs in accordance with all applicable laws.

3.3.2. SunRice will ensure it complies with all applicable laws, and has implemented policies to achieve such compliance, including in respect of laws concerning anti-bribery and corruption, competition, applicable international sanctions, human rights, and

applicable import or food standard requirements of other countries to which Australian rice is exported by SunRice.

### 3.4. Amendments

3.4.1. This Agreement may be amended from time to time on agreement in writing by both parties, subject to the requirements of the SEEL Agreement.

3.4.2. Where the RMB considers that amendments are required in order for this Agreement to:

- a) properly reflect the rights and obligations required in order for the SEEL to continue to remain appropriate; or
- b) changes in the *Rice Marketing Act 1983* or the RMB's role under it,

the RMB will give notice of that view to SunRice and the parties will negotiate such amendments in good faith.

### 3.5. Interaction with the SEEL and SEEL Agreement

This Agreement is intended to help clarify the operation of the SEEL and SEEL Agreement and how RMB will make decisions, and the parties will conduct themselves, in connection with those documents. To the extent of any inconsistency with this Agreement the terms of the SEEL or SEEL Agreement will prevail.

### 3.6. Compliance and Termination

The terms of the SEEL include that the SEEL Agreement may be terminated by either party by giving five years notice (Clause 12(b)) or otherwise in accordance with Clause 15 of the SEEL Agreement.

### 3.7. Governing law

This Agreement is governed by the laws of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that place.



**Executed and delivered as a Deed** in New South Wales.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

**Signed Sealed and Delivered** by  
RICE MARKETING BOARD in the  
FOR THE STATE OF NSW  
presence of:

\_\_\_\_\_  
Witness Signature

CAROLYN CHISWELL  
Print Name BOARD SECRETARY

\_\_\_\_\_  
Signature

VICTORIA TAYLOR  
BOARD CHAIR

\_\_\_\_\_  
23 MAY 2019

**EXECUTED** by Ricegrowers Limited in  
accordance with section 127(1) of the  
*Corporations Act 2001* (Cth) by authority of its  
directors:

\_\_\_\_\_  
Signature of director

Rob Gordon  
Name of director (block letters)

\_\_\_\_\_  
Signature of ~~director~~/company secretary\*

\*delete whichever is not applicable

Mandy Del Gigante  
Name of ~~director~~/company secretary\* (block  
letters)

\*delete whichever is not applicable