

**"COVER PAGE A"**

THIS AND THE FOLLOWING PAGE IS THE "COVER PAGE A" TO THE LLS FUNDING AGREEMENT, IN RESPECT OF THE PROPOSED ACTION AGAINST FONTERRA CO-OPERATIVE GROUP ENTITIES

**IMPORTANT NOTES:**

Please read the terms of the LLS Funding Agreement, obtain independent legal advice if you wish and then sign where indicated on page 2.

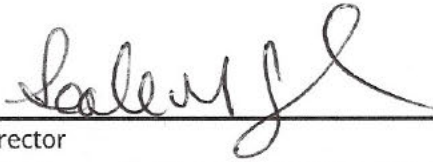
A copy of the signed LLS Funding Agreement will be provided to you for your records.

Signing this Cover Page A on the following page means that you agree to the terms of the LLS Funding Agreement.

<b>DATED</b>	15 June 2020	
<b>BETWEEN:</b>		
LLS Fund Services Pty Ltd ABN 51 627 975 213 as Trustee for Litigation Lending Fund 1		("LLS")
<b>ADDRESS</b>	Level 13, 333 George Street, Sydney, New South Wales 2000	
Lynden and Geoffrey Iddles		("Claimant")
<b>CONTACT NAME</b>	Lynden and Geoffrey Iddles	
<b>ADDRESS</b>		
<b>CONTACT EMAIL</b>		
<b>CONTACT NUMBER</b>		
Adley Burstyner ACN 639 167 301		("Lawyers")
<b>ADDRESS</b>	131 Westbury Close Balaclava Victoria 3183	

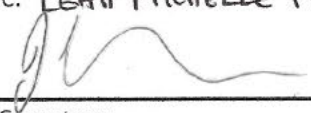
EXECUTED by the parties as an Agreement:

SIGNED for and on behalf of )  
LLS Fund Services Pty Ltd ABN 51 627 975 213 by )  
its directors in accordance with s.127 of the )  
Corporations Act 2001 )



Director

Print Name: LEAH MICHELLE FRICKE



~~Director~~ Secretary

Print Name: Jeff Chamberlain

SIGNED for and on behalf of )  
Lynden & Geoffrey Iddles )

Print Name: Geoffrey Iddles

Print Name: Lynden Iddles

# LLS FUNDING AGREEMENT

## THE PARTIES

Claimant (details below) AND LLS Fund Services Pty Ltd ("LLS") (details below)

## THE ITEMS

### **IMPORTANT NOTE TO APPLICANT**

Complete all details in CAPITAL LETTERS Read this Agreement, take legal advice if you wish and then sign on page 2

*Please return to LLS the first 3 pages (and any additional pages you use) and keep a copy for yourself.*

*If you have executed the Retainers online, a copy will be provided for your records.*

### ITEM 1. LLS CONTACT FOR DAY-TO-DAY CORRESPONDENCE

EMAIL	kmay@litlend.com.au	PHONE	+61 2 9051 9990
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### ITEM 2. LLS's DETAILS

*The address given here is the address for the service of notices*

CONTACT PERSON	Kim May	ADDRESS	LLS Fund Services Pty Ltd Level 13, 333 George Street Sydney NSW 2000
EMAIL	kmay@litlend.com.au		

### ITEM 3. CLAIMANT

NAME	LYNDEN & GEOFFREY IDDLES
ADDRESS	[REDACTED]

## RECITALS

- A** The Claimant has or may have one or more Claims against the Respondent.
- B** Other persons have or may have claims which are the same or similar to the Claims. The Claimant, together with those other persons, wishes to bring Proceedings in respect of some or all of the Claims.
- C** The Claimant has requested LLS to provide funding for the pursuit of the Claims.
- D** LLS is prepared to pay the Project Costs pursuant to the terms of this Agreement.
- E** The Claimant has agreed, in return, to assign LLS a share of the Claim Proceeds (if any) on the terms of this Agreement.
- F** The Claimant proposes to enter into the Retainer with the Lawyers.
- G** The Claimant is aware that LLS will also provide funding to other LLS Claimants which funding may be in different terms to this Agreement and may fund other actions against the Respondent unrelated to the Claims.
- H** The Claimant is aware that where the Claimant has more than one Claim against more than one Respondent, it is possible that separate Proceedings will be instituted against different Respondents in relation to those Claims.
- I** The Claimant is aware that his, her or its Claims may be pursued in common with other Relevant Claims and may be against one or more Respondents and that any Class Action may include (as members of the group) persons who have not entered into a funding agreement with LLS.
- J** The Claimant and LLS acknowledge that each has, by virtue of their respective contributions, obligations and entitlements (including each to receive a share of any Claim Proceeds) set out in this Agreement, an interest in the Claims, the Proceedings and any Claim Proceeds.

**1 Definitions and Interpretation**

**Agreement** means this agreement.

**Adverse Costs Insurance** means a contract of insurance that provides cover for the costs incurred by the Respondent in the Proceedings that may be the subject of an Adverse Costs Order.

**Adverse Costs Insurance Premium** means any sum paid out by LLS to purchase Adverse Costs Insurance.

**Adverse Costs Insurance Provider** means any person considering providing, or who provides, Adverse Costs Insurance to LLS or any LLS Claimants, in respect of the Relevant Claims, whether before or after the date of this Agreement.

**Adverse Costs Order** means any costs order made in favour of the Respondent against the Representative, the Claimant and/or LLS in the Proceedings, or prior to or in contemplation of the Proceedings (as part of the Project Investigation, in respect of costs of the Respondent incurred during the term of this Agreement.

**Alternative Dispute Resolution Process** means any form of negotiation, discussions, mediation, conciliation, expert determination, arbitration or other form of dispute resolution process which seeks to Settle any and/or all of the Relevant Claims and/or the Proceedings.

**Budget** means the estimated Disbursements and capped Legal Costs for the Common Benefit Work set out in Schedule 1.

**Business Day** means any day that is not a Saturday, Sunday or a Public Holiday in New South Wales.

**Claim** means the legal claim or claims the Claimant has or may have against some or all of the Respondents arising out of, or connected with, the facts, matters, circumstances and/or allegations set out in **Item (b) of Schedule 2**.

**Claim Proceeds** means any amount of money, or the value of any goods, services or benefits, any interest (including interest earned on trust money), any monies recovered by virtue of a Costs Order or any agreement in respect of costs and any ex gratia payments which are attributable to the resolution, Settlement, judgment and/or enforcement in respect of the Claim. The Claim Proceeds refers to the gross value of these sums prior to any set-off or counterclaim exercised or exercisable by the Respondent, prior to any deduction for tax payable and is not net of any costs or expenses of conducting the Claim. There will be a separate Claim Proceeds for each separate Proceeding.

**Claimant** means the person or entity listed as the "Claimant" on Cover Page A to this Agreement.

**Claimant's Share** means the share borne by the Claimant calculated by reference to the proportion that the amount of the Claims bears to the total amount of the Relevant Claims.

**Class Action** means proceedings commenced under Part IVA of the *Federal Court of Australia Act 1976 (Cth)* or any other similar or equivalent law, whether in a State Court or otherwise, as effective from time to time, against the Respondents in respect of the Relevant Claims. Class member means a group member in such proceedings at the time the definition is applied (as that term is defined in the applicable law),

**Co-Funder** means any person considering entering into, or enters into, an agreement with LLS to provide co-funding to the Claimant, or a similar arrangement, in respect of the Relevant Claims, whether before or after the date of this Agreement.

**Commencement Date** means the date on which this Agreement has been executed and delivered by both Parties.

**Common Benefit Work** means Legal Work other than Individual Legal Work, including Legal Work for the common benefit of LLS Claimants or a sub-class of LLS Claimants, for any representative or sample claimant's claim (including County Court Proceeding No. CI - 19-02195), and work for the benefit of class members generally, whether in the Class Action or other processes, which falls within the scope of the Budget.

**Common Fund Application** means an application in the Class Action by the Representative seeking all class members, including LLS Claimants, to pay fees to LLS from any Claim Proceeds in accordance with terms that are the same or similar to the terms of this Agreement (including the Standard Lawyer Terms).

**Common Fund Order** means, where the Proceedings are pursued as an "open class" class action, and in the course of those Proceedings the Court makes orders requiring the representative applicant and all class members to pay a share of the legal costs, commission and any other amounts payable to a litigation funder from a common fund comprising any amounts they may receive in any settlement or judgment in the Proceedings.

**Confidential Information** means:

- (a) the contents and subject matter of this Agreement;
- (b) any forensic report and or legal opinions obtained by or on behalf of the LLS Claimants under this Agreement (or any summaries of them);
- (c) any information relevant to the Relevant Claims whether of a technical, commercial or any other nature;
- (d) any information coming to a Party by virtue of being a Party to this document; and
- (e) information developed by a Party relevant to the Claim prior to or during the term of this Agreement including all information, data, documentation, functions, features, agreements with third parties, marketing information, customer or contact lists, trading data and financial information;

irrespective of whether it is provided to a Party before, on or after the Commencement Date, except for information in the public domain other than as a result of a breach of this Agreement.

**Conflicts Management Policy** means LLS's policy for managing conflicts annexed at Schedule 3 to this Agreement, as may be amended from time to time.

**Costs Order** means an order made by a court requiring a person to pay the legal costs incurred by another person in relation to a court proceeding.

**Disbursement** means any disbursements or expenses the Lawyers incur whether as principal or as agent on the Claimant's behalf in relation to the Legal Work, including (without limitation) barristers and other experts' fees, searching fees, lodging fees, travel expenses, courier fees and photocopying fees.

**GST** means goods and services tax under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Individual Legal Work** means Legal Work in connection with the specific Claims of a specific LLS Claimant.

**Investigation Product** means all information, documentation, conclusion, opinion, analyses, results and conclusions obtained, reached, conducted and/or created (as the case may be) in or as a result of the Project Investigation.

**LLS Claimants** means the persons who have the Relevant Claims. Unless otherwise stated, LLS Claimants include the Claimant.

**LLS Commission** means the amount provided for and calculated in accordance with **Item (e) of Schedule 2**.

**LLS Entitlements** means an amount equal to:

- (a) the Claimant's Share of the Project Costs (with any adjustments necessary relating to GST);
- (b) an additional amount, on account of GST, being the amount obtained by multiplying the prevailing rate of GST (currently 10%) by an amount equal to the consideration to be received by LLS for any taxable supply made to the Claimant by LLS under or in connection with this Agreement, if LLS is required to collect and remit such tax; and
- (c) the LLS Commission, but where the amount of LLS Commission is greater than the balance of the Claim Proceeds after the assignment of the amounts referred to in sub-clauses (a) and (b) above, then that balance;

to be paid, assigned and attributed (as the case may be) in the order of priority as listed above subject at all times to Court Approval.

**Lawyers** means the firm identified in **Item (c) of Schedule 2** or any other solicitors appointed in their place by agreement of LLS and the Representative in accordance with the Standard Lawyer Terms and any retainer.

**Legal Costs** means reasonable legal professional fees incurred by or on behalf of the Claimant in accordance with the terms of the Retainer in relation to the Legal Work. For clarity, Legal Costs do not include Disbursements.

**Legal Work** means such advice, legal and administrative services which the Lawyers consider reasonably necessary to conduct the Project Investigation or to conduct or prosecute the Claims and/or Proceedings, including work to negotiate a Settlement of the Claims.

**Overarching Objective** means the just resolution of the Relevant Claims as quickly, inexpensively and efficiently as possible with the aim of maximizing the present value of money received via the Settlement or adjudication of the Relevant Claims, net of costs, whilst having due regard to all risks including, in particular, the risk of the Relevant Claims being unsuccessful.

**Parties** means LLS and the Claimant (and **Party** means either one of them).

**Privilege** means, unless the context otherwise requires, legal professional privilege and includes any joint privilege or common interest privilege.

**Proceeding** means any and all Class Actions for the determination of the substantive issues arising in respect of the Relevant Claims issued by or taken over by the Claimant or any other LLS Claimants, whether proposed to be conducted or in fact conducted in Australia or any other jurisdiction, and any court procedure commenced for the purpose of the Overarching Objective. For clarity, Proceeding does not include Project Investigation.

**Progress Report** means a written report provided to LLS addressing each of the matters set out in Schedule 4 concerning all material aspects of the conduct of the Proceedings and/or the Claims.

**Project Costs** means the external costs incurred at any time up to the conclusion of this Agreement in respect of or associated with investigating, prosecuting and/or resolving the Claims and/or the Relevant Claims, comprising:

- (a) the costs involved in the provision of any security for costs;
- (b) any Adverse Costs Insurance Premium;
- (c) any Adverse Cost Order;
- (d) the Legal Costs and Disbursements associated with the Project Investigation;
- (e) the Legal Costs and Disbursements associated with the Proceeding;
- (f) the Legal Costs and Disbursements associated with any Alternative Dispute Resolution Process;
- (g) any other costs, expenses and disbursements incurred by LLS in relation to the Relevant Claims and this Agreement, or reasonably required for and contributing to the Overarching Purpose; and
- (h) any GST payable as a result of the above costs or expenses being incurred.
- (i) costs of any work requested explicitly by LLS;



For clarity, Project Costs does not include Remaining Costs or Remaining Costs for Project Investigation.

**Project Investigation** means work undertaken prior to and in contemplation of Proceedings, including but not limited to:

- (a) investigating the evidentiary basis for the Claims;
- (b) collating material documents;
- (c) investigating the capacity of any Respondent to pay any judgment, award or order which may be made against that Respondent relating to the Claims in any Proceedings;
- (d) investigating the interest of the Respondent to resolve the Claims by any Alternative Dispute Resolution Process;
- (e) investigating any other matter that LLS determines is relevant to the Claims, the potential Proceedings or its obligations under this the Agreement; design and implement any Alternative Dispute Resolution Process for the resolution of the Relevant Claims, other than initiation of Proceedings; and
- (f) initiate and undertake proceedings for preliminary discovery, examination or other mechanism for the purpose of gathering information or detail concerning the Relevant Claims or any Respondent.

**Regulations** means the *Corporations Amendment Regulation 2012 (No.6)* as amended from time to time.

**Related Body Corporate** has the meaning given in section 50 of the *Corporations Act 2001* (Cth).

**Relevant Claims** means the claims of persons who have, or may have, claims which are the same or similar to the Claims, against some or all of the Respondents. Unless otherwise stated, Relevant Claims include the Claim.

**Remaining Costs** means the following amounts (including GST):

- (a) the percentage set out in **Item (j) of Schedule 2** of the reasonable Legal Costs of the Lawyers incurred up to the conclusion of this Agreement for the sole purpose of preparing for, prosecuting and resolving the Proceedings (excluding any Project Investigation) together with any applicable uplift fee;
- (b) any legal fees or disbursements incurred for or in respect of the Legal Work (excluding any Legal Work for Project Investigation) in excess of capped amounts for each Stage set out in the Budget (as the case may be) together with any applicable uplift fee; and
- (c) any interest on the amounts set out in subclauses (a) and (b) of this definition incurred by the Lawyers from the date that such amounts are incurred at the rate set out in **Item (k) of Schedule 2**

- (d) any other fee arising after entry into this agreement which the parties agree to make payment of conditional on a successful outcome of the claim, together with any applicable uplift fee.

For clarity, Remaining Costs do not form part of the Project Costs.

**Remaining Costs for Project Investigation** means:

- (a) the percentage set out in **Item (l) of Schedule 2** of the reasonable Legal Costs of the Lawyers incurred up to the conclusion of this Agreement for the sole purpose of Project Investigation;
- (b) any legal fees or disbursements incurred for or in respect of the Legal Work for Project Investigation in excess of the Project Investigation Funding Cap together with any applicable uplift fee; and
- (c) any interest on the amounts set out in subclauses (a) and (b) of this definition incurred by the Lawyers from the date that such amounts are incurred at the rate set out in **Item (m) of Schedule 2**
- (d) any other fees for work prior to entry into this agreement which the parties agree to make payment of conditional on a successful outcome of the claim, including as particularised in the Budget, together with any applicable uplift fee.

For clarity, Remaining Costs for Project Investigation do not form part of the Project Costs and do not include Remaining Costs.

**Representative** means any one or more of the LLS Claimants who is a representative party in a Proceeding.

**Resolution** means when all or any part of the Claim Proceeds is received by or on behalf of the Claimant or a Related Body Corporate or related entity of the Claimant. Where Claim Proceeds are received in part or where there is more than one Proceeding, a "Resolution" occurs each time a part is received in respect of each Proceeding.

**Respondent** means the person or entity named in **Item (i) of Schedule 2** and any other person against whom claims arising out of the same factual circumstances as the Claim, are made by the Lawyers on behalf of the Claimant.

**Retainer** means the agreement between the Claimant and the Lawyers that includes the Standard Lawyers Terms.

**Settlement** means any settlement, compromise, discontinuance, withdrawal, abandonment, dismissal or waiver of all or part of the Claims. "Settle" has corresponding meaning.

**Stage** means the stage or stages set out in the column titled "Stage" in the Budget.

**Standard Lawyer Terms** means the terms and conditions set out in Schedule 5.

**Trust Account** means a bank account established and held by the Lawyers, which is capable of being used to hold Claim Proceeds on trust for the Claimant and LLS, and if

considered appropriate by the Lawyers, to also hold other monies obtained from other Relevant Claims on trust for the other LLS Claimants and LLS.

### Interpretation

In this Agreement, unless a contrary intention appears:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Agreement;
- (b) words or expressions importing the singular include the plural and vice versa;
- (c) words or expressions importing a gender include any gender;
- (d) words or expressions denoting individuals include any legal entity, and any words or expressions denoting acts done or roles undertaken include those done or undertaken an act by an authorised representative of a legal entity;
- (e) a reference to a Party includes that Party's successors and permitted assigns;
- (f) if a Party is made up of more than one person, or a clause refers to more than one Party, any obligation on those persons is joint and several;
- (g) a provision of this document will not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this document or the inclusion of the provision in this document; and
- (h) where an act is required to be done, or a time period expires, on a day which is not a Business Day, then the act must be done by, and the time limit will expire on, the following Business Day.

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## 2 Commencement and Cooling Off Period

2.1 This Agreement commences on the Commencement Date.

2.2 The Claimant may withdraw from this Agreement by doing so in writing prior to the expiry of 14 days after the date this Agreement is signed by the Claimant. Such withdrawal will cause this Agreement to terminate, but will not be treated as a termination under clause 10. Time is of the essence.

2.3 If the Claimant withdraws in accordance with clause 2.2, upon LLS receiving the written notice pursuant to that clause, the Claimant shall have no continuing or further obligation to LLS save for any obligations to preserve the Privilege arising in respect of the terms of this Agreement and any other information received prior to the withdrawal pursuant to or in connection with this Agreement. This clause survives the withdrawal or termination of this Agreement.

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## 3 Claimant's acknowledgements and obligations

3.1 The Claimant authorises and appoints LLS to, to the extent permissible by law, :

- (a) make any decision or do any act necessary and/or incidental to conduct the Project Investigation and commence, prosecute, progress or resolve the Claims and/or Proceedings; and
- (b) for the purposes of clause 3.2(f), to complete, sign and file with the relevant Court any opt out notice on the Claimant's behalf, together with any further or other acts that may be required to give effect to such opt out or withdrawal from the proceeding.

3.2 During the term of this Agreement the Claimant will:

- (a) do everything reasonable and necessary to assist LLS with their endeavour to investigate, commence, prosecute, progress or resolve the Claims or Proceedings;
- (b) co-operate in good faith with LLS, and comply with any reasonable request LLS makes, in order to achieve the Overarching Objective and, in particular, will provide to LLS all information that LLS reasonably requires;
- (c) follow all reasonable legal advice given by the Lawyers in relation to the Claims;
- (d) not have any communication with any Respondent in respect of the Claims other than through the Lawyers or upon their reasonable advice;
- (e) not cause, permit or assert any charge, lien or other encumbrance or right over or otherwise attaching to the Claim Proceeds after the Commencement Date, except with the prior written consent of LLS, which consent may be withheld by LLS at its discretion in so far as an attachment might reasonably be considered to adversely impact on LLS's interests in the Claim Proceeds; and
- (f) withdraw from or opt out of any other proceeding conducted against the Respondent if the claims pursued in that proceeding overlap with the Claims in the Proceedings, and otherwise at the direction of LLS, at the advice of the Lawyers.

3.3 The Claimant acknowledges that the Lawyers, to the extent permissible by law:

- (a) will determine, in consultation with the Representative and LLS, what Relevant Claims should be made or pursued at any stage of the Proceedings; and
- (b) will if necessary, determine the amounts of each Relevant Claim and the Claimant's Share; and
- (c) have entered, or will enter into, an agreement with LLS in the same or similar terms as the Standard Lawyer Terms.

3.4 The Claimant agrees that if there is any inconsistency between the Retainer on the one hand and this Agreement or the Standard Lawyer Terms on the other, the terms of this Agreement or the Standard Lawyer Terms, as applicable, will prevail.

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4 Funding for Project Investigation

- 4.1 Without limiting the generality of clause 3.1 above, the Claimant authorises and consents for LLS to, at LLS's discretion, conduct the Project Investigation and perform any act for the purposes of the Project Investigation.
- 4.2 LLS may, in its absolute discretion, instruct the Lawyers to conduct the Project Investigation or any part thereof. If LLS elects to do so, then subject to the Project Investigation Funding Cap, it will pay the Lawyers' Legal Costs and Disbursements incurred for the Project Investigation less any Remaining Costs for Project Investigation.
- 4.3 LLS will pay any Adverse Cost Order incurred for, or arising out of, the Project Investigation.
- 4.4 The Claimant acknowledges that to the extent that the Lawyers' Legal Costs and Disbursements for Project Investigation exceed the Project Investigation Funding Cap, the excess forms part of the Remaining Costs for Project Investigation which are dealt with in accordance with the Standard Lawyers Terms and clause 6.2(b)(ii).
- 4.5 Any information or documents provided by the Claimant to LLS may be used by LLS for the purposes of advancing the Claims, the Relevant Claims and/or the Proceedings. Such information or documents are confidential in accordance with clause 11.
- 4.6 Notwithstanding any termination of this Agreement, any Investigation Product may be retained and used by LLS:
- (a) to assist in the preparation, prosecution or resolution of any Relevant Claims;
  - (b) to obtain legal or financial advice, or financial services, in connection with or in respect of its performance of this Agreement or any other agreements with LLS Claimants; and
  - (c) to monitor its actual and potential rights and obligations under this Agreement and any other agreements with LLS Claimants.

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5 Funding for Proceedings

- 5.1 LLS will:
- (a) pay the Project Costs;
  - (b) pay any Adverse Costs Order and take steps to confirm this obligation with the Court and the Respondent where necessary; and
  - (c) to the extent required by an order of the Court, provide any security for the costs of any Respondent in such form that LLS determines and the Respondents or the Court accept, relating to costs incurred by a Respondent during the term of this Agreement.
- 5.2 The funding of payments for the Common Benefit Work is capped at each Stage to the amounts as set out in the Budget in respect of professional costs of the Lawyers. In the event there is a budget surplus for a Stage, subject to agreement by LLS, which will not be unreasonably withheld, there will be a corresponding increase to the budget(s) for any

earlier Stage(s) to the extent that the costs for those Stage(s) exceeded the applicable budget (meaning a top up payment becomes immediately payable), and to the extent that there has not been any such past exceeding of the Budget the surplus will be added to the budget for subsequent Stages.

- 5.3 The Claimant acknowledges that to the extent that the Lawyers' Legal Costs for the Common Benefit Work exceed any applicable cap as set out in the Budget, or for any other reason are agreed to be made conditional on success (including in respect of Disbursements), the excess forms part of the Remaining Costs which are dealt with in accordance with the Standard Lawyers Terms and clause 6.2(b)(ii) below. However, LLS may at its sole discretion, which is to be exercised reasonably, extend the funding beyond any capped amounts in the Budget.
- 5.4 LLS may, by written notice to the Claimant, suspend its funding obligations under this Agreement regarding payment of Legal Costs if, without reasonable basis:
- (a) LLS has not received the last monthly report from the Lawyers in accordance with clause 8.3(d); or
  - (b) LLS has not received from the Lawyers a copy of any invoice in respect of the Legal Work for a period of 3 months or more.

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## 6 LLS Entitlements and Remaining Costs

### 6.1 LLS Entitlements

In consideration for LLS agreeing to provide the services and funding set out in this Agreement, upon Resolution, the Claimant, as assignor, assigns and pays to LLS, as assignee, the LLS Entitlements from any Claim Proceeds.

### 6.2 Mechanism for payment of the LLS Entitlements and Remaining Costs from the Claim Proceeds:

- (a) The Claimant agrees to and will take all reasonable steps, and give all necessary instructions where required, to ensure that upon Resolution:
  - (i) any Claim Proceeds are paid into the Trust Account in the first instance;
  - (ii) the Lawyers promptly and otherwise within 1 business day, inform LLS of the event in clause 6.2(a)(i); and
  - (iii) the Lawyers pay the LLS Entitlements directly to LLS from the Trust Account in accordance with subclause 6.2(b) below.
- (b) From the Claim Proceeds, the Claimant and the Lawyers will cause, subject to contrary Court direction:
  - (i) as first priority, the LLS Entitlements to be paid to LLS within 7 days of receipt of the Claim Proceeds into the Trust Account and before any other payment from the Trust Account;

- (ii) as second priority, any Remaining Costs and Remaining Costs for Project Investigation to be paid to the Lawyers pursuant to their entitlements under this Agreement and the Standard Lawyer Terms; and
- (iii) as third priority, all remaining amounts belonging to the Claimant to be paid to the Claimant.

### 6.3 LLS Entitlements to be held on trust

The Claimant acknowledges that the LLS Entitlements are to be held on trust for LLS by the Lawyers until they are paid to LLS.

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## 7 Additional Respondents and Appeals

7.1 If any person or entity other than that named in **Item (i) of Schedule 2** becomes a Respondent ("**Additional Respondent**"), then from the date on which LLS gives notice that it agrees to accept Adverse Costs Order exposure in respect of that Additional Respondent, an additional percentage or amount as set out in **Item (f) of Schedule 2** for that Additional Respondent (or, where there is more than one Additional Respondent referred to in LLS's notice, for each Additional Respondent that is not represented by the same lawyers) is added to the percentage or amount set out in **Item (e) of Schedule 2**.

7.2 If there is a final judgment in the Proceedings which is not in favour of the Claimant or the Representative and LLS has notified the Lawyers in writing that it is prepared, in its discretion, to fund an appeal, then LLS will pay, as part of the Project Costs, the reasonable legal costs and disbursements of the appeal and will pay any Adverse Costs Order if the appeal is unsuccessful. Where the Claimant is a Representative in a Class Action, the Lawyers will lodge and prosecute the appeal in the name of the Claimant.

7.3 If there is a final judgment in the Class Action in favour of the Claimant or Representative and the Respondent appeals, then LLS may elect, in its discretion and in writing to the Lawyers, to fund the reasonable legal costs and disbursements of the defence of the appeal. If LLS so elects, then LLS will pay, as part of the Project Costs, the reasonable legal costs and disbursements of the appeal and any Adverse Costs Order if the defence of the appeal is unsuccessful. Where the Claimant is the Representative in the Class Action, the Lawyers will defend the appeal in the name of the Claimant.

7.4 If LLS notifies the Claimant (or the Representative) and the Lawyers under sub-clauses 7.2 or 7.3, then from the date of LLS's notice an additional percentage or amount as set out in **Item (h) of Schedule 2** will be added to the percentage or amount set out in **Item (e) of Schedule 2** in consideration of the funding of each appeal by LLS.

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## 8 Instructions to the Lawyers and Settlement

8.1 In the Class Action, the Claimant acknowledges and agrees that, with respect to the Common Benefit Work:

- (a) the Representative is entitled to give day-to-day instructions to the Lawyers;

- (b) however, the Representative (including where the Claimant is the Representative) may authorise LLS to give day-to-day instructions to the Lawyers on the Representative's behalf, subject to clause 8.5; and
  - (c) nevertheless, the Representative may override any instruction given by LLS by the Representative giving instructions directly to the Lawyers.
- 8.2 In the Class Action, the Claimant acknowledges and agrees that, with respect to Individual Legal Work for the Claims:
  - (a) the Claimant is entitled to give day-to-day instructions to the Lawyers;
  - (b) however, the Claimant may authorise LLS to instruct the Lawyers on the Claimant's behalf; and
  - (c) nevertheless, the Claimant may override any instruction given by LLS by the Claimant giving instructions directly to the Lawyers.
- 8.3 The Claimant hereby irrevocably instructs LLS to, subject to clauses 8.1, 8.2 and 8.5, for as long as the Lawyer's invoiced fees are not outstanding for more than 35 days from delivery of a certified invoice, and to the extent permissible at law, give day to day instructions to the Lawyers and irrevocably instructs the Lawyers, subject to the same payment compliance, to:
  - (a) comply with all day to day instructions given by LLS;
  - (b) prosecute the Claim efficiently and effectively, in accordance with the Budget (if the Proceeding is a Class Action) and in accordance with the Overarching Objective;
  - (c) where applicable, make a Common Fund Application (or other application providing for LLS' entitlements of reasonable funding commission, if by a different name) if directed by LLS to do so, at LLS's sole discretion; and
  - (d) keep LLS fully informed of all material developments concerning the Relevant Claims and provide a Progress Report to LLS as reasonably requested by LLS, within 5 Business Days of such request or as otherwise agreed between LLS and the Lawyers.
- 8.4 Except in relation to settlement of the Claims, which is dealt with in sub-clauses 8.5 to 8.9 below, if the Lawyers notify LLS and the Claimant that the Lawyers believe that circumstances have arisen such that they may be in a position of conflict with respect to any obligations they owe to LLS and those they owe to the Claimant, the Claimant and LLS agree that, in order to resolve that conflict, the Lawyers may:
  - (a) seek instructions from the Claimant, whose instructions will override those that may be given by LLS;
  - (b) give advice to the Claimant and take instructions from the Claimant, without sharing such information with LLS and with the Claimant having exclusive privilege in that advice, even though that advice is, and instructions are, or may be, contrary to LLS's interests; and



- (c) refrain from giving LLS advice and from acting on LLS's instructions, where that advice is, or those instructions are, or may be, contrary to the Claimant's interests.

8.5 In the context of the Proceeding (being a Class Action), if the Representative:

- (a) wants to Settle the Proceedings for less than LLS considers appropriate; or
- (b) does not want to Settle the Proceedings when LLS considers it appropriate to do so;

then the Claimant agrees that LLS and the Representative must seek to resolve their difference of opinion by referring it to counsel for advice on whether, in counsel's opinion, Settlement of the Proceedings on the terms and in the circumstances identified by either LLS or the Representative or both, is fair and reasonable in all of the circumstances. For the avoidance of doubt, either LLS or the Representative or both may seek counsel's opinion.

8.6 For the purposes of clauses 8.5 and 8.9, counsel will be the most senior counsel of those retained by the Lawyers, in respect of the Claim. If no counsel has been retained then the Lawyers, in consultation with the Representative and LLS, will appoint counsel for that purpose. If LLS and the Representative are unable to agree on the selection of counsel then counsel will be appointed as selected by the President of the New South Wales Bar Association for that purpose (but if the Proceeding is predominantly in a court of a State other than NSW, then the selection shall be by the President or equivalent of that State's Bar Association).

8.7 If counsel's opinion is that the Settlement is fair and reasonable, then the Claimant and LLS agree that the Lawyers are instructed to do all that is necessary to Settle the Class Action consistently with the terms of the Settlement advised by counsel, provided that the approval of the Court to the Settlement is sought and obtained.

8.8 Subject to clause 8.9, the procedure set out in clauses 8.5 to 8.7 inclusive will also apply where the Claimant:

- (a) wants to Settle any Claim not yet the subject of a Class Action for less than LLS considers appropriate; or
- (b) does not want to Settle any Claim not yet the subject of a Class Action when LLS considers it appropriate to do so.

8.9 Where there is a proposed Settlement of any Claims not yet the subject of proceedings, the Claimant agrees to be bound by that proposed Settlement, and that the Lawyers are instructed to do all that is necessary to settle the Claims as part of that proposed Settlement, provided advice is received from the most senior counsel of those retained by the Lawyers (or if no counsel has been retained, counsel appointed in accordance with clause 8.6) that the proposed Settlement is fair the reasonable in all of the circumstances.

The Lawyers will determine the value of each Relevant Claim for the purposes of this clause and this Agreement.

8.10 Any costs incurred in respect to the procedures set out in clauses 8.5 to 8.9 will be paid by LLS and such costs will form part of the Project Costs.

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## 9 Conflicts of Interest

9.1 LLS will:

- (a) comply with the Conflicts Management Policy;
- (b) comply with the requirements of the Regulations; and
- (c) provide timely and clear disclosure to the Claimant of any material breach by LLS of the Regulations relevant to the Claimant.

9.2 If any conflict arises as between the interests of LLS and the interests of the Claimant, then the Lawyers may continue to act for the Claimant, take instructions from the Claimant (and not LLS) and LLS will raise no objection to them doing so.

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## 10 Termination

10.1 Termination by LLS

LLS is entitled to terminate this Agreement by giving 21 days written notice to the Claimant if LLS, in its absolute discretion, reasonably forms a view that:

- (a) the prospects of success of the Claim have declined such that the Claim should no longer be pursued; or

10.2 Termination for Material Breach

If any Party commits a material breach of this Agreement or the Regulations and such breach is:

- (a) incapable of remedy, or
- (b) capable of remedy but the Party has failed to remedy the breach within 28 days of receiving a notice from the other Party requiring it to do so,

then the other Party may immediately terminate this Agreement by giving written notice to the other Party.

### 10.3 Termination of Lawyers' Engagement

- (a) If the Standard Lawyers Terms are terminated, LLS will inform the Claimant as to whether LLS and the Representative have agreed to other solicitors becoming the Lawyers.
- (b) If, pursuant to clause 10.3(a), LLS informs the Claimant that LLS and the Representative have agreed to other solicitors becoming the Lawyers, provided those solicitors agree with LLS to terms the same as or substantially the same as the Standard Lawyers Terms, those solicitors will become the Lawyers for the purposes of this Agreement in place of the existing Lawyers.
- (c) Replacement of the Lawyers in the circumstances of this clause:
  - (i) will not result in a termination of this Agreement; and
  - (ii) will not result in the replacement solicitors assuming any obligations of the Lawyers accrued to the date the appointment of the previous Lawyers is terminated.
- (d) If the Standard Lawyers Terms with the existing Lawyers are terminated and LLS informs the Claimant that it is not proposed to replace the Lawyers, then this Agreement will terminate as at the date of such notice.

### 10.4 Termination due to Common Fund Order in Competing Class Action

If a Common Fund Order is granted in proceedings that are in respect of the Relevant Claims but not funded by LLS (**Competing Class Action**) and as a result, the Claimant becomes irreversibly obliged to pay a commission to the funder or any other entity in respect of the Competing Class Action, either Party may by written notice to the other Party terminate this Agreement.

### 10.5 Effect of Termination Pursuant to Clause 10.1, 10.1, 10.2(d) or 10.4

Upon the termination of this Agreement pursuant to clause 10.1, 10.1, 10.2(d) or 10.4:

- (a) All obligations of LLS under this Agreement cease on the date that the termination becomes effective, save for the following obligations accrued to that date:
  - (i) payment of any outstanding Project Costs incurred up to the date that the termination becomes effective;
  - (ii) payment of Costs required to bring the Proceedings to an end, if applicable; and
  - (iii) payment of any Adverse Costs Order in respect of costs which arise in, or are attributed to, or resulting from conduct of Proceedings in, the period beginning on the Date of Commencement and ending on the date the Proceedings can be brought to an end following such notice, if applicable, and provided the Proceedings are brought to an end efficiently.

- (b) The LLS Commission assigned to LLS pursuant to clause 6.1, is reassigned to the Claimant and LLS is not entitled to the LLS Commission, but LLS otherwise continues to be entitled to balance of the LLS Entitlements, excluding the LLS Commission, as an assignee under clause 6.1 or if such assignment is for any reason ineffective, the Claimant remains liable to pay the balance of the LLS Entitlements, excluding the LLS Commission, pursuant to this clause. This applies irrespective of when a Resolution occurs, including a resolution at a time after the termination.

#### 10.6 Termination by the Claimant by Opting Out

If the Claimant exercises a right to opt out of the Class Action, then upon the exercise of that right this Agreement will terminate but LLS continues to be entitled to the LLS Entitlements as an assignee under clause 6.1 or if such assignment is for any reason ineffective, the Claimant remains liable to pay the LLS Entitlements pursuant to this clause. This applies irrespective of when a Resolution occurs, including a resolution at a time after the termination.

#### 10.7 Survival of Termination

The obligations under this clause 10 are continuing and survive the termination of this Agreement.

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#### 11 Confidential information

- (a) A Party must not use or disclose the other Party's Confidential Information and must maintain any Privilege attaching to the Confidential Information, except as expressly permitted below and if approved in advance by the Lawyers in writing unless the provision below explicitly requires otherwise:
  - (i). in the proper performance of this Agreement and to achieve the Overarching Objective;
  - (ii). to the Lawyers and LLS;
  - (iii). as may be disclosed to a Court to assist in obtaining Court approval of a Settlement of the Relevant Claims;
  - (iv). to the Respondents on a strictly confidential basis in order to assist in Settlement negotiations;
  - (v). to its Related Body Corporates, officers, employees and advisers (including legal or financial);
  - (vi). LLS is permitted to disclose the Confidential Information to any Co-Funders, Adverse Costs Insurance Providers and any Co-Funders' or Adverse Costs Insurance Providers' Related Body Corporates, officers, employees and advisors provided that the applicable recipient of such disclosure has agreed with LLS to keep the information confidential and/or the subject of Privilege;
  - (vii). as required by law; or

- (viii). with the consent of the other Party.
  - (b) Both Parties will ensure they have and will maintain operating procedures to comply with their obligations in clause 11(a).
  - (c) The obligations in clauses 11(a) and 11(b) survive termination of this Agreement.
- 

## 12 Warranties and Representations

### 12.1 Claimant's Warranties

The Claimant warrants that:

- (a) any facts, information or documents it has provided to LLS in relation to the Claims are accurate and complete to the best of its knowledge; and
- (b) it has received, or declined a reasonable opportunity to obtain, independent legal, accounting and financial advice in connection with this Agreement and the Claim.

### 12.2 Matters on which no warranty is provided

Neither Party provides any warranty or representation:

- (a) as to the qualification, experience, quality or suitability of the Lawyers or any insurer; or
- (b) as to the outcome that can or will be achieved from pursuing the Claim.

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## 13 Dispute Resolution

13.1 Where a dispute arises regarding the Claims and/or Proceedings other than in respect of settlement (which is dealt with under clauses 8.5 to 8.9) or in respect of the matters covered under clause 8.4 (Dispute), the Dispute must be resolved in accordance with this clause 13.

13.2 This clause 13 is enlivened by the sending of a notice by either Party to the other stipulating that it is a notice seeking to enliven this clause and specifying the details of the Dispute.

13.3 The Parties will use their best endeavours to resolve the Dispute within 14 days from receipt of the notice under clause 13.2.

13.4 Failing resolution, the Dispute will be referred to a third party counsel agreed between the parties in dispute, or failing agreement as to the identity of counsel to be appointed within 7 days from the failure to resolve the Dispute under clause 13.3, by a counsel nominated by the President of the Bar Association of New South Wales (but if the Proceeding is

predominantly in a court of a State other than NSW, then the selection shall be by the President or equivalent of that State's Bar Association).

- 13.5 For the purpose of conducting a determination under this clause 13, counsel shall inform themselves as they see fit at their discretion. The Parties shall co-operate in good faith with any requirements of counsel to assist them with their role under this clause 13.
- 13.6 The determination of counsel under this clause 13 is to be final and binding on the Parties.
- 13.7 Each of the Claimant and LLS is liable for 50% of the cost of the counsel engaged for the purpose of this clause 13. For avoidance of doubt, the Claimant's share for Counsel's costs under this clause is not funded or payable by LLS

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## 14 General

### 14.1 Amendment of this Agreement

This Agreement may only be amended as follows:

- (a) by notice in writing by LLS to the Claimant and the Lawyers, and the Claimant does not notify LLS in writing within 21 days that the amendment is rejected;
- (b) if a Common Fund Order (or equivalent) is sought and obtained and any conditions imposed by the Court on the order coming into effect are satisfied (including undertakings being obtained from all persons required to give them under the terms of the Common Fund Order) (**CFO Effective Date**), the terms of this Agreement shall be automatically amended (without the need for a variation agreement) in such manner as necessary to give effect to any terms of the Common Fund Order which conflict with the terms of this Agreement. Any such amendments shall take effect from the CFO Effective Date; or
- (c) otherwise by written agreement of both Parties.

### 14.2 Assignment

- (a) Unless otherwise provided for in this Agreement, neither Party may assign, delegate, charge or otherwise transfer or encumber any of its rights or obligations under this Agreement without the prior written consent of the other Party.
- (b) The consent referred to in clause 14.2(a) must not be unreasonably withheld.
- (c) Notwithstanding clause 14.2(a), LLS may assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all or part of its business, provided that the assignee undertakes in writing to be bound by the obligations of LLS under this Agreement.

### 14.3 Severance

If a provision of this Agreement would, but for this clause, be unenforceable:

- (a) the provision will be read down to the extent necessary to avoid that result; and

- (b) if the provision cannot be read down to that extent, it will be severed without affecting the validity and enforceability of the remainder of this Agreement.

#### 14.4 Entire Agreement

- (a) This Agreement records the entire agreement between the Parties as to its subject matter. It supersedes and replaces all prior agreements, obligations, representations and understandings.
- (b) The Parties have not entered into this Agreement on the basis of any representation, warranty or undertaking that is not expressly set out in this Agreement.

#### 14.5 Governing Law and Jurisdiction

The laws of New South Wales govern this document and the Parties submit to the exclusive jurisdiction of the Supreme Court of Victoria.

#### 14.6 Partnership etc

- (a) Neither Party intends to be a partner or owe fiduciary duties to the other.
- (b) LLS has the authority to make commitments on behalf of the Claimant in accordance with the terms of this Agreement. Otherwise, neither Party has, or will represent that it has, any authority to make any commitments on behalf of the other Party.

#### 14.7 Execution of this Agreement

This Agreement may be executed in a number of counterparts and exchanged in hard copy or via email of a scanned pdf. image of the executed Cover Page A.

#### 14.8 **Input Tax Credits**

- (a) In this clause 14.8 the following definitions apply:
  - (i) **ATO** means the Australian Taxation Office;
  - (ii) **BAS** means a business activity statement;
  - (iii) **Creditable Acquisitions** has the same meaning given to the term "creditable acquisitions" in the GST Act;
  - (iv) **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
  - (v) **Input Tax Credit** has the same meaning as the expression "input tax credit" as in the GST Act;

- (b) The Claimant must not claim any Input Tax Credit for the GST paid or payable by LLS under this Agreement with respect to any Legal Costs, Disbursements and Adverse Costs Insurance Premium, unless such a claim is made by the Claimant for and on behalf of LLS for the benefit of LLS pursuant to clause 14.8(c).
- (c) In the event that the Claimant is entitled to any Input Tax Credit the GST paid or payable by LLS under this Agreement with respect to any Legal Costs, Disbursements and Adverse Costs Premium and the Claimant receives the benefit of such Input Tax Credit, then the Claimant must:
  - (i) when legally entitled to do so, lodge with the ATO a BAS for each tax period during the course of this Agreement and must do so within the prescribed timeframes;
  - (ii) include in its BAS for the relevant tax period the amount of Input Tax Credit that it is entitled to claim in respect of its Creditable Acquisitions that were paid for as part of the Legal Costs and/or Disbursements; and
  - (iii) repay to LLS the amount of the Input Tax Credit referred to in clause 14.8(c)(ii), within 7 days upon receipt of the refund from the ATO; and/or in the event that the ATO credits the amount of any such Input Tax Credit to which the Claimant is entitled against any other tax liability of the Claimant, then within 7 days of notification by the ATO that such a credit has been made.
- (d) For the avoidance of doubt, the Claimant acknowledges that LLS is beneficially entitled to the Input Tax Credits referred to in this clause 14.8 and undertakes to provide LLS with the benefit of all the Input Tax Credits received.

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15 Notices

15.1 How to give notices


- (a) Any notice given under this Agreement must:
  - (i). be in writing in English and signed by the party;
  - (ii). clearly state that the communication is a notice under this Agreement; and
  - (iii). be sent by hand delivery, pre-paid post or email to:
    - the Claimant using the details on page 1 and 2 of this Agreement and to the Lawyers; and
    - LLS using the details in Items 3 and 4 on page 1 of this Agreement.
- (b) A Party may change its address and other details for receipt of notices by giving 7 days' written notice to the other Party.



## 15.2 Time of receipt

- (a) A notice is taken to be received:
  - (i). if hand-delivered, at the time of delivery;
  - (ii). if sent by pre-paid post, three days (if sent within Australia) or 10 days (if sent internationally) after the date of posting; or
  - (iii). if sent by email, when the sender receives a delivery confirmation report that records the time that the email was delivered to the addressee's email address.
  
- (b) If due to this clause a notice would be taken to be received on a day that is not a Business Day, or after 5.00pm on a Business Day, the notice is taken to have been received at 9.00 am on the first Business Day after that day.

SCHEDULE 1 – FUNDING CAP AND BUDGET FOR PROCEEDINGS

 <p><b>Adley Burstyner</b></p>	<p><u>Fee estimate for Fonterra Class Action</u>                  Intended commencement date: June 2020                  Estimated duration: [REDACTED]                  Estimated trial length = [REDACTED]</p>	<p><u>Unconditional costs</u></p>			<p><u>AB fees conditional on success (ie: risk share), without 25% uplift</u></p>
<p>STAGES</p>	<p>Event Code</p>	<p>Total disb'ts</p>	<p>AB Fees</p>	<p><u>(25% uplift payable on success specified below)</u></p>	



Estimated uplift for the purposes of the Legal Profession Uniform Law (being 25% of conditional/ risk share fees)  
 Estimated total fees for the purposes of section 174 of the Legal Profession Uniform Law



Assumptions, scope and basis of budget - 11 June 2020

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SCHEDULE 2 – DESCRIPTION/PARTICULARS

The details of each item which constitute its definition for the purpose of this Agreement is set out in the corresponding column entitled “Particulars” in this table as follows:		
Item	Item Name	Particulars
(a)	Deleted	Deleted
(b)	“Claim” (Clause 1)	A representative proceeding against Fonterra Co-Operative Group entities (Fonterra) arising from losses sustained as a result of Fonterra announcing and implementing a farmgate milk price ‘step down’ in May 2016.
(c)	“Lawyers” (Clause 1)	Adley Burstyner
(d)	Project Investigation Funding Cap (Clause 1)	As per Schedule 1
(e)	LLS Commission (Clause 1)	<p>“LLS Commission” means:</p> <ol style="list-style-type: none"> <li>1. For any Claim Proceeds received on or before eighteen (18) months of the Commencement Date, an amount equal to 25% of the Claim Proceeds; otherwise</li> <li>2. For any Claim Proceeds received on or after eighteen (18) months of the Commencement Date, an amount equal to 30% of the Claim Proceeds,</li> </ol> <p>subject at all times to Court Approval.</p>

(f)	<b>Increase in LLS Commission for additional respondents</b> (Clause 7.1)	An additional 1.5%.
(g)	<b>Deleted</b>	Deleted
(h)	<b>Increase in LLS Commission for appeals</b> (Clauses 7.44)	An additional 5%.
(i)	<b>Respondent</b> (Clause 1)	One or more entities in the Fonterra Group, being the corporate group including <b>Fonterra Co-Operative Group Limited</b> (and including for these purposes Bonlac Supply Company Pty Ltd and associated entities) and the directors of those entities.
(j)	<b>Remaining Costs – Percentage borne by Lawyers</b> (Clause 1)	30%
(k)	<b>Interest Rate on Remaining Costs</b> (Clause 1)	NOT APPLICABLE
(l)	<b>Remaining Costs for Project Investigation –</b>	See costs and fees described as conditional and for pre-filing, in Schedule 1

	<b>Percentage borne by Lawyers</b> (Clause 1)	
(m)	<b>Interest Rate on Remaining Costs for Project Investigation</b> (Clause 1)	NOT APPLICABLE



## SCHEDULE 3 – CONFLICT OF INTEREST POLICY

1. Background
  - 1.1. A business providing financial services to litigation schemes and/or litigation arrangements is exempt from the requirements that would otherwise apply under Chapter 7 of the *Corporations Act 2001* ("Corporations Act"), but must maintain, for the duration of the scheme or arrangement, adequate practices for identifying and managing any conflicts of interest that may arise.
  - 1.2. ASIC's Regulatory Guide 248 ("RG 248") sets out ASIC's expectations for compliance with Section 7.6.01AB of the *Corporations Amendment Regulation 2012 (No. 6) Amendment Regulation 2012 (No. 1)* as follows:
    - 1.2.1. Each entity is responsible for determining its own arrangements to manage interests that may conflict; and
    - 1.2.2. Each entity must be able to demonstrate that it has adequate practices to manage conflicts of interest, including documenting, implementing, monitoring and reviewing those arrangements.
2. Purpose
  - 2.1. LLS Fund Services Pty Ltd ("LLS") relies on the exemptions under the *Corporations Regulations 2001* ("the Regulations") for litigation funding schemes and litigation funding arrangements.
  - 2.2. The purpose of this document is to set out LLS' policy with respect to identifying, managing and monitoring conflicts of interest, so as to ensure compliance with the Regulations and to enhance the protection of Claimants' interests.
  - 2.3. The policy also sets out which positions are responsible for completion of the various tasks and responsibilities outlined in the document.
3. Scope
  - 3.1. This policy applies to all of LLS' cases, including those under which LLS provides either funding and/or an indemnity, and applies regardless of whether there is a single Claimant or a group of Claimants. The definitions of a litigation funding scheme and a litigation funding arrangement are outlined in reg 5C.11.01 of the *Corporations Amendment Regulations 2012 (No. 6)*.

#### 4. General Principles

- 4.1. Delegations and responsibilities are to positions and not to individuals.
- 4.2. The work undertaken in respect of the policy is to be documented, so as to substantiate compliance with the obligation to maintain adequate practices and follow certain procedures for managing conflicts of interest.
- 4.3. Compliance with the obligation may vary according to the nature, scale and complexity of each type of funding arrangement.
- 4.4. All individual positions nominated are responsible for understanding the responsibilities assigned to them and are obligated to execute their responsibilities as outlined within this document.
- 4.5. Any breaches of this policy should be reported to the CEO and Chairman of the Board.
- 4.6. This policy will be reviewed annually (in June), by the CFO and CEO, in conjunction with the Litigation Managers (**LM**). Any proposed changes are to be approved by the Board, and the revised policy implemented subsequent to Board approval.
- 4.7. After each annual review of the policy by the CFO and CEO, a statement will be issued to the Board confirming that the review has been completed and the regulation requirements have been met.

#### 5. Conflicts of Interest

- 5.1. According to RG 248.11, the nature of the arrangements between the parties involved in a litigation funding arrangement has the potential to lead to a divergence of interests between the claimants and the interests of the funder and the lawyers because:
  - 5.1.1. The funder has an interest in minimising the legal and administrative costs associated with the scheme and maximising their return;
  - 5.1.2. Lawyers have an interest in receiving fees and costs associated with the provision of legal services; and
  - 5.1.3. The claimants have an interest in minimising the legal and administrative costs associated with the scheme, minimising the remuneration paid to the funder and maximising the amounts recovered from the defendant or insolvent company.

- 5.2. The divergence of interests may result in conflicts between the interests of the funder, lawyers and the claimants. These conflicts can be actual or potential, and present or future.
- 5.3. Conflicts of interest between the funder, lawyers and claimants may arise in a litigation scheme where:
  - 5.3.1. The lawyers act for both the funder and the claimants;
  - 5.3.2. There is a pre-existing legal or commercial relationship between the funder, lawyers and/or claimants; or
  - 5.3.3. The funder has control of, or has the ability to control, the conduct of the proceedings.
- 5.4. The divergence of interests between the funder, lawyers and claimants in a litigation scheme could affect:
  - 5.4.1. The recruitment of prospective claimants;
  - 5.4.2. The terms of any funding agreement;
  - 5.4.3. A scheme where there are difficulties with the case of the representative party, but not with the cases of other claimants of the class; and
  - 5.4.4. Any decision to settle or discontinue the action.
6. Measures in Place to Mitigate Conflicts of Interest
  - 6.1. LLS has in place the following measures which serve to mitigate potential conflicts of interest:
    - 6.1.1. Neither LLS nor its employees provide legal advice or legal services to claimants;
    - 6.1.2. Each Director of LLS provides an annual Declaration of Existing Interests which states any interests held by that Director (direct or indirect) in incorporated or unincorporated entities, including any directorships, committee memberships or positions of office;
    - 6.1.3. In every funding agreement, LLS contracts with the claimant as a principal;
    - 6.1.4. The funding agreement provides that LLS acknowledges and agrees that the lawyers for the claimant are instructed by the claimant in all matters

relating to the claim and that the claimant has the right to direct, conduct and conclude the claim;

- 6.1.5. LLS does not engage the same lawyers to act for it in a particular matter as those that are engaged to act for the claimant, and LLS will not seek to influence the claimant's lawyers to cede control of the claim to LLS, or otherwise to act in breach of their professional duties;
- 6.1.6. Any funds arising from a settlement or judgment are paid into the trust account of the claimant's solicitor and distributed to LLS by that solicitor according to the terms of the funding agreement;
- 6.1.7. The funding agreement provides for dispute resolution in the event of any actual conflict of interest arising between LLS and the claimant, being referral to Counsel;
- 6.1.8. LLS will not enter into any agreements to provide funding for any claims against the company's appointed statutory auditor (or other professional services provider);
- 6.1.9. LLS will not enter into any agreements to provide funding for any claims where the company's appointed statutory auditor is joined or likely to be joined; and
- 6.1.10. Prior to accepting any litigation funding contract, the Litigation Manager will make appropriate enquiries to ensure that all parties involved in the claim or likely to be joined in the matter are appropriately identified and documented so that, should LLS' auditor be named, the person(s) making the final decision to proceed will be adequately informed so that clauses 6.1.8 and 6.1.9 can be put into effect before proceeding.

## 7. Procedures for Identifying Situations in Which Interests May Conflict

- 7.1. At the time LLS determines that it will provide an offer of funding to a party ("the claimant"), the LM will review the claimant's claim and will seek to identify any interests LLS has that may be divergent to those of the claimant.
- 7.2. At the time LLS determines that it will provide an offer of funding to the claimant, the LM will review the Declaration of Existing Interests of LLS Board members and will seek to identify any interests LLS Board members may have that may be divergent to those of the claimant.
- 7.3. The LM will discuss those divergent interests with the CEO, and determine whether LLS is in a position to proceed with the offer of funding.

- 7.4. The LM will document those divergent interests in its Register of Actual or Potential Conflicts of Interest ("Conflicts Register"), and the key agreed outcomes.
- 7.5. The LM will conduct a quarterly review of each case, with a view to assessing whether a conflict of interest has arisen between LLS' interests and those of a claimant or claimant(s). The review will be documented in the Conflicts Register.
- 7.6. The LM will discuss any conflicts of interest that are identified as part of that quarterly review with the CEO, and summarise the agreed key outcomes in the Conflicts Register.
- 7.7. The CEO will review the Conflicts Register on a quarterly basis, and sign off that all potential and existing conflicts of interest have been identified and appropriately documented.
- 7.8. After each quarterly review of the Conflicts Policy by the CEO, a statement will be issued to the Board confirming that the review has been completed and the regulation requirements have been met.
8. Procedures for Disclosing and Managing Conflicts of Interest
  - 8.1. If prior to entering a funding agreement, LLS has identified that a potential conflict exists, it will notify the claimant, via the claimant's lawyers, of those potential conflicts in the form of Schedule 1. The notification date and a copy of the letter will be filed in the Conflicts Register.
  - 8.2. If prior to entering a funding agreement, LLS has identified that an actual conflict exists, it will notify the claimant, via the claimant's lawyers, of those conflicts, together with a proposal for managing those conflicts of interest.
  - 8.3. If, during the course of providing funding for a claim, LLS determines that a conflict of interest has arisen between LLS' interests and those of the claimant or claimants, LLS will notify the claimant(s), via their lawyer, of the conflict it has identified, and will provide the claimant with a proposal to seek to manage the conflict as follows:
    - 8.3.1. In the first instance, LLS will recommend to the claimant(s) that they seek legal advice in relation to the conflict.
    - 8.3.2. LLS will also propose to the claimant(s) that the conflict be referred to Counsel for an advice as to an appropriate and reasonable resolution of the conflict.
  - 8.4. In respect of 8.2 and 8.3 above, the date the notification and proposal are provided to the claimant will be documented in the Conflicts Register, along with

a copy of that notification, the proposal and any subsequent response. The agreed processes (if any) for managing that conflict will also be filed in the Conflicts Register, and procedures will be put in place to adhere to that agreement.

- 8.5. The method of delivery of disclosure/notification to the claimants, as provided for above will in most cases be in writing and delivered in hard copy form to the claimant's lawyer. If, however LLS determines that this method and form is inappropriate, it will choose a method and form more suitable to the particular circumstances of the case.
9. Recruitment of Prospective Members/Claimants for Class Actions or Representative Proceedings
  - 9.1. Recruitment is usually undertaken by the lawyers for the claimants, not by LLS. LLS however will take steps to ensure that as far as possible and reasonable, it will review the process of recruitment of prospective claimants to any litigation funding arrangement. This review will include a LM reviewing the terms of any advertisements made to the public to ensure that no misleading or false statements are made in relation to aspects of the funding arrangement. That review, and any subsequent correspondence with the lawyers, will be documented in the Conflicts Register.
  - 9.2. The CEO will recommend to the lawyers engaged in the recruitment process that any documents provided to prospective claimants must clearly state any risks to claimants in entering into a litigation funding arrangement, as well as the amount or percentage return to be paid to the funder. The LM will note the date that this letter was provided in the Conflicts Register, along with a copy of that letter and any subsequent correspondence with the lawyers.
10. The Terms of the Funding Agreement
  - 10.1. LLS will ensure that it includes terms within any funding agreements to which it is a party that provide:
    - 10.1.1. A clear statement as to the total amount of funding that LLS is providing for the claimant's costs and disbursements, any undertaking by LLS to provide security for costs or to pay any adverse costs ordered against the claimant and any other financial liability which LLS is undertaking to meet for the benefit of the claimant;
    - 10.1.2. That it agrees to keep the existence and terms of the funding agreement confidential and that it will not, without the claimant's consent, disclose the funding agreement to any third party other than LLS' legal and financial advisers or as required by law;

- 10.1.3. The terms on which LLS may provide input into any settlement negotiations or offer which the claimant is proposing to submit or accept;
  - 10.1.4. A mechanism for resolution of any dispute between LLS, the claimant and/or the lawyer, including but not limited to any dispute in relation to settlement, being referral of the dispute to Counsel;
  - 10.1.5. That in the event the claimant and LLS disagree on whether or not the claim should be concluded, or the terms upon which the claim is concluded, LLS acknowledges that the lawyers ultimately act for the claimant;
  - 10.1.6. In relation to Class Actions and Representative Proceedings, a cooling off period, to enable the potential claimant an opportunity to obtain legal advice; and
  - 10.1.7. The terms on which LLS and the claimant, respectively, may terminate the funding agreement.
- 10.2. LLS will provide a prospective claimant with the opportunity to negotiate amendments to the terms of a funding agreement, and a reasonable period of time within which to consider whether or not the claimant wishes to enter into the funding agreement with LLS on the terms offered by LLS.
11. Procedures for Dealing with Situations Where the Lawyer Holds Obligations to Both the Funder and Claimants
- 11.1. If the lawyers are engaged on terms that they act for LLS as well as for the claimant (generally not the case), the CEO will instruct the lawyers that their primary obligations are to the claimant and in the event there is a divergence of interests between those of LLS and those of the claimant, the lawyers must act to prefer the interests of the claimant over those of LLS.
  - 11.2. In a situation where there is no direct contractual relationship between the lawyers and any of the claimants to a litigation scheme, the CEO will ensure that the lawyers are aware that in the event there is a divergence of interests between LLS and the claimants, the lawyers hold an obligation to the claimants to protect their interests.
  - 11.3. The LM will record in the Conflicts Register the date that it provided the instruction to the lawyers as outlined in 11.2 and 11.2, along with a copy of that instruction (or a summary of the meeting notes).

12. Procedures for Dealing with a Pre-existing Relationship Between any of the Funder, Lawyer and Claimants
  - 12.1. In the event LLS has an existing relationship with the lawyers instructed on a particular matter (ie, LLS has previously worked on a matter with the lawyers), it will disclose such relationship to the claimant, including the term of the relationship and the nature of the relationship, and invite the claimant to consider whether it wishes to proceed with the funding arrangement.
  - 12.2. The LM will record in the Conflicts Register the date that the disclosure was provided to the claimant as outlined in 12.1, along with a copy of that correspondence (or a summary of the notes from that meeting). The claimant's response will also be documented in the Register.
  
13. Procedures for Oversight of a Settlement in a Situation Where No Proceedings Have Been Issued
  - 13.1. If settlement of a litigation scheme is being considered by the parties prior to proceedings having been issued, the CEO will ensure that the proposed settlement has been considered by Counsel and that Counsel has indicated that it is an appropriate settlement. The LM will file a copy of the CEO's correspondence to Counsel (or a copy of the notes for the meeting with Counsel) in the Conflicts Register.
  - 13.2. In considering the settlement, Counsel will be asked to take into account the following:
    - 13.2.1. The amount offered to each claimant;
    - 13.2.2. The prospects of success of the claim;
    - 13.2.3. The likelihood of the claimant(s) obtaining judgment for an amount in excess of the settlement sum;
    - 13.2.4. Whether the settlement sum falls within a realistic range of likely outcomes;
    - 13.2.5. The terms of any advice received from an independent expert on the issues that arise in the case;
    - 13.2.6. The attitude of the group claimants to the settlement;
    - 13.2.7. The likely duration and cost to claimants of proceedings if continued to judgment;



- 13.2.8. The terms of any funding agreement that specify the procedure that will be applied in reviewing and deciding whether to accept any settlement offer, including the factors that will and will not be taken into account in deciding to settle;
  - 13.2.9. Whether the funder might refuse to fund further proceedings if the settlement is not approved; and
  - 13.2.10. Whether the settlement involved unfairness to any claimant or categories of claimants for the benefit of others.
- 13.3. The LM will record in the Conflicts Register the date that LLS received the advice from Counsel as outlined in 13.1, as well as a copy of Counsel's advice.
  - 13.4. LLS will be bound by Counsel's advice in regards to the settlement.
- 14. Monitoring and Review of the Conflicts Register, Reporting to the Board
    - 14.1. The CEO will conduct a quarterly review of all existing funded matters, as well as the Conflicts Register in order to ensure that LLS is fully compliant with the policy, and that the Conflicts Register is current. This review will be documented in the Conflicts Register.
    - 14.2. The CEO will summarise the key conflicts as part of his/her CEO Report to the Board on a quarterly basis. Further, the CEO will use his/her discretion in reporting significant conflicts of interest to the Board as they arise. These reports will be filed in the Conflicts Register.

## SCHEDULE 1 TO CONFLICT OF INTEREST POLICY - LLS DISCLOSURE LETTER TO CLIENT

Dear Claimant,

Litigation Lending Services Ltd (LLS) has provided litigation funding for parties to pursue claims for over 15 years.

Pursuant to Regulatory Guide 248 issued by the Australian Securities and Investments Commission in April 2013, LLS and its subsidiaries is required, as a litigation funder, to advise you of potential conflicts of interest that may arise throughout the duration of the attached litigation funding agreement (LFA).

The nature of the arrangements between the parties to a LFA has the potential to lead to a divergence of interests between the clients, the funder and the lawyers because, although those interests are generally aligned, in the sense that both aim to achieve a successful outcome to the litigation, there are some circumstances in which those interests may be in conflict. These conflicts of interest can be actual or potential, and present or future.

The conflicts of interest that we anticipate may arise are as follows:

- Where there is a pre-existing or potential future legal or commercial relationship between the funder and your lawyers. Your lawyers, Adley Burstyner, will only be acting for you, not for LLS. This is reflected in the LFA, including clauses 8.4 and 9.2 of the LFA. Accordingly, your lawyers have an obligation to prefer your interests over any interests of LLS.
- Negotiation of the terms of the LFA. You are advised to seek advice from your lawyers in relation to the terms of the LFA. Pursuant to clause 2 of the LFA you are entitled to a cooling off period within which you may withdraw from the LFA.
- Procedural aspects of the claim. The parties may potentially disagree about the best strategy for pursuing the claim to achieve an optimal outcome. In the event there is a disagreement in relation to any procedural aspects of the claim, clause 13 of the LFA provides for a dispute resolution mechanism by way of referral to Counsel.
- Proposed settlement. The parties may potentially disagree about whether or not to accept a settlement offer, or whether to make a particular settlement offer. In the event there is a disagreement in relation to settlement, clauses 8.5 to 8.9 of the LFA provide for a dispute resolution mechanism by way of referral to Counsel for determination. Counsel must also review and approve any proposed settlement where proceedings haven't been commenced. In relation to class actions in which proceedings have been commenced, further protection is afforded to class members as the Court is required to approve any proposed settlement.
- Termination of the funding agreement. Clauses 10.1, 10.1, 10.2 and 10.3 of the LFA provides that LLS may terminate its obligations under the LFA, with notice, but LLS remains liable to indemnify you in respect of any adverse costs that are incurred up to the date of termination. You are also entitled to terminate the LFA in certain circumstances as outlined in clause 10.1, 10.4 and 10.6 of the attached LFA.

- Recruitment of members to a class action. LLS is obliged to review any documents that are released to the public to ensure that they do not contain misleading statements in relation to the proposed claim.

Whilst conflicts of interest have the potential to arise in the litigation funding context, LLS is committed to managing any such conflict to ensure that the interests of the client are protected and a successful outcome is achieved for all parties to the LFA. Specifically, LLS reviews every claim that it provides funding for (both at the outset and during the course of the litigation) and in the event that LLS becomes aware that the interests of any of the parties to the LFA are in conflict, LLS will notify you in writing of the nature of the conflict and the way in which it proposes to manage such conflict in order to protect your interests.

Throughout the period of the LFA, should you feel at any time that your interests are in conflict with those of LLS, please contact us and/or your lawyers in order that the conflict can be addressed without delay.

Clause 13 of the attached draft litigation funding agreement provides for a dispute resolution mechanism in the event that a conflict of interest arises and the parties are unable to resolve that conflict informally among themselves.

We recommend that you obtain your own legal advice in relation to the attached LFA and ensure that it addresses any concerns that you may have in relation to the management of any potential conflicts of interest.

Yours faithfully

LLS Fund Services Pty Ltd

## SCHEDULE 4 – PROGRESS REPORT

Name of Case	
Date of Report	
Name of lawyer making report	
Please list the key events which have occurred since the date of the last report	
Please indicate any key features of the case which have changed since the last report	
Please list the steps you expect to take in the next month	
Please provide your assessment of the prospects of success of the case, the prospects of settling and the prospects of enforcement as applicable. If any prospects have changed in the last month, please provided detailed reasoning	
Do you see any changes to the estimates of costs provided by you and reflected in Schedule 1 of the Litigation Funding Agreement? Please note the capped funding as set out in that schedule.	
What is your current estimated date for the final trial of this matter? If this has changed since the last report, please explain why.	
What proposals do you have to explore settlement in the next month, if any?	

## SCHEDULE 5 – STANDARD LAWYER TERMS

This agreement is made the 15th day of June 2020

BETWEEN: ADLEY BURSTYNER of 131 Westbury Close Balaclava Victoria 3183 ("**the Lawyers**")

AND: **LLS FUND SERVICES PTY LTD** of Level 13, 333 George Street, Sydney, New South Wales 2000 ("**LLS**").

### RECITALS

- A. LLS has entered into or proposes to enter into the LLS Funding Agreements.
- B. The LLS Funding Agreements are all in the same, or substantially the same, terms.
- C. The Lawyers are aware of the terms of the LLS Funding Agreements and have agreed to act consistently with, and in accordance with, their terms and these Standard Lawyers Terms.

### 1. DEFINITIONS

1.1. In these Terms, unless the contrary intention appears:

**"Claims"** means the claims each Funded Person has or may have against some or all of the Respondents for loss and damage caused by the conduct of one or more of the Respondents.

**"Funded Person"** means all persons who have entered into an LLS Funding Agreement with LLS with respect to their Relevant Claims.

**"LLS Funding Agreement"** means all litigation funding agreements between LLS on the one hand and persons who have or may have claims arising out of, or connected with, the representative proceeding against Fonterra Co-Operative Group entities on the other.

**"Standard Lawyer Terms"** means this agreement.

1.2. Unless otherwise defined herein or the context clearly requires otherwise, terms defined in the LLS Funding Agreement will have the meanings when used herein.

### 2. LLS FUNDING AGREEMENT

2.1. The Lawyers will:

2.1.1. act consistently with the terms of the LLS Funding Agreement;

2.1.2. comply with all instructions set out in, or provided pursuant to, the LLS Funding Agreement; and

2.1.3. do all things which the LLS Funding Agreement contemplates the Lawyers will do.

- 2.2. The Lawyers agree that if there is any inconsistency between these Terms and the terms of the LLS Funding Agreement or the terms of any retainer between the Lawyers and any Funded Person, these Standard Lawyer Terms prevail.

### **3. COMMENCEMENT OF THE REPRESENTATION**

- 3.1. The Lawyers will inform LLS in writing in a timely fashion of:
  - 3.1.1. the names of the individual lawyers and experts who will undertake Legal Work in connection with the Claims;
  - 3.1.2. the hourly rates of all solicitors;
  - 3.1.3. the hourly and daily rates of barristers retained or proposed to be retained; and
  - 3.1.4. all information necessary for the preparation of the Budget.

In circumstances involving time pressures such notice may be given within the 7 business days after those persons have performed work on the matter.

### **4. REPORTING**

- 4.1. The Lawyers will keep LLS fully informed of all matters concerning the Relevant Claims and the Proceedings, including any mediation and settlement discussions. The Lawyers will ensure that the Claimant and LLS are given all necessary information and documents in order to facilitate informed instructions.
- 4.2. Without limiting the generality of clause 4.1, if the Lawyers become aware of any information which has or may have a material impact on the Claims, the Proceedings, or the potential for any judgment sum to be recovered, the Lawyers must immediately inform LLS of such information.
- 4.3. The Lawyers will provide Progress Reports in accordance with the terms of the LLS Funding Agreement.

### **5. COSTS, DISBURSEMENTS AND INTEREST**

- 5.1. The Lawyers will charge for the Legal Work performed by reference to the time reasonably and properly spent at the hourly rates notified to LLS pursuant to Clause 3.1.2, subject to the Lawyers' right to increase the hourly rates by no more than five per cent (5%) of the initial hourly rates notified on each anniversary of the date of these Terms. Detailed time records must be kept by the Lawyers to facilitate time details being provided in accordance with Clause 6 below.
- 5.2. No fee will be charged by the Lawyers for any fee earners, other than those notified to LLS pursuant to Clause 3.1.2, without the prior consent of LLS. LLS will not be liable to pay the fees of any barristers or experts other than those notified to LLS pursuant to Clause 3.1.3 or those briefed with LLS's written consent. LLS will not unreasonably refuse to provide its written consent.
- 5.3. The Lawyers will only seek payment from LLS for Disbursements that are reasonably incurred by the Lawyers in progressing the Claims and/or the Proceedings, being:
  - 5.3.1. photocopying, printing and scanning at rates notified to and approved by LLS;
  - 5.3.2. travel and accommodation (where necessary), and
  - 5.3.3. other reasonable expenditure supported by invoices.
- 5.4. Under no circumstances shall LLS' liability to pay the Lawyers under the LLS Funding Agreement or these Standard Lawyer Terms exceed the Claimant's liability to pay the

Lawyers (save only for disregarding, for the purposes of the operation of this clause, that the Claimant's liability is limited to LLS' liability).

## **6. INVOICES**

- 6.1. The Lawyers will render monthly invoices to LLS with respect to the Legal Costs and Disbursements, accompanied by:
  - 6.1.1. the details contemplated by clause 6.5;
  - 6.1.2. a summary of the time details by their total cost (in a single dollar figure) allocation to each relevant event set out in the Budget; and
  - 6.1.3. invoices from barristers and experts and for any other disbursements; and
- 6.2. The monetary details in the monthly invoices will include a charge for the time detailed at 70% of the hourly rates of the Lawyers notified to LLS pursuant to Clause 3.1.2 and 100% of the hourly rates of the barristers notified to LLS pursuant to Clause 3.1.3.
- 6.3. Subject to the LLS Funding Agreement, LLS will pay:
  - 6.3.1. 70% of the reasonable legal fees of the Lawyers incurred up to the termination of the LLS Funding Agreement for the sole purpose of preparing for, prosecuting and resolving the Claims and/or the Proceedings, and for any other work performed at the request of LLS; and
  - 6.3.2. 100% of barristers' fees, any other reasonable fees of experts approved by LLS and any other reasonable fees and disbursements as agreed with LLS up to the termination of the LLS Funding Agreement for the sole purpose of preparing for, prosecuting and resolving the Proceedings, and for any other work performed at the request of LLS;

insofar as those costs and disbursements form part of the Project Costs. For clarity, this does not include Remaining Costs.

- 6.4. Provided invoices from the Lawyers comply with these Terms, LLS will pay them within 30 days from the date they are received by LLS. The Lawyers are entitled to interest on any invoices not paid within the above timeframe from the date of the issue of the invoice at the rate prescribed by the relevant legal profession regulations or rules and pursuant to those regulations.
- 6.5. The time details for fees of the Lawyers must be included with each invoice and must include, for each time entry:
  - (a) the date on which the time was spent;
  - (b) by whom the time was spent; and
  - (c) the time spent in six-minute units.
- 6.6. LLS may at its discretion require the Lawyers to submit any one or more of their invoices to taxation or costs assessment. Further, LLS may at its discretion engage, at its own cost, an independent cost consultant to conduct an ongoing review and certification of the Lawyers' invoices on a monthly basis. LLS will only be obliged to pay the costs and disbursements certified by the cost consultant as reasonably incurred. Any costs and disbursements which are not paid by LLS may be sought as Remaining Costs.

## **7. PAYMENT OF REMAINING COSTS**

- 7.1. The Lawyers will be obliged to continue with the Proceedings until a final Resolution notwithstanding that capped amounts set out in the Budget have been reached or exceeded (subject to any termination rights the Lawyers may have).
- 7.2. For the avoidance of doubt, the Lawyers will not seek to recover any Remaining Costs or any Remaining Costs for Project Investigation other than in accordance with these Terms and the LLS Funding Agreement.
- 7.3. On Resolution and in accordance with the LLS Funding Agreement, the Lawyers shall be entitled to payment or distribution out of any Claim Proceeds, an amount comprising the Remaining Costs uplifted by an amount of 25% and the Remaining Costs for Project Investigation uplifted by an amount of 25%.

## **8. TERMINATION OF APPOINTMENT**

- 8.1. The Lawyers may terminate these Terms on 7 days' written notice to LLS in the following circumstances:
  - (a) if LLS fails to pay any costs in accordance with these Terms after LLS has been given 30 days' written notice to do so; or
  - (b) if the Lawyers terminate the Retainer between the Lawyers and Funded Person relating to the Claims and/or the Proceedings in accordance with their right to do so.
- 8.2. LLS may terminate these Terms:
  - (a) by agreement with the Lawyers;
  - (b) in the event of professional misconduct or negligence by the Lawyers that has caused or is reasonably likely to cause material loss to a Funded Person or to LLS.
- 8.3. If these Terms are terminated pursuant to clauses 8.1 or 8.2, the Lawyers remain liable for all obligations under this Agreement accrued by them between the date of their appointment and the date of termination, but thereafter all obligations and entitlements of the Lawyers cease except:
  - (a) those entitlements to Legal Costs under the LLS Funding Agreement accrued to the date of termination including their entitlement to Remaining Costs (calculated as per clause 7 above) should there be a Resolution, whenever that occurs; and
  - (b) the Lawyers shall continue to maintain any legal professional privilege attaching to, and the confidentiality of, the Confidential Information.
- 8.4. These Terms will terminate when all of the LLS Funding Agreements are terminated, such termination to take effect upon the last date on which the last LLS Funding Agreement is terminated. If there is a termination pursuant to this Term each party will remain liable for its obligations accrued to the date of termination. Nothing in these Terms shall affect or limit LLS's rights to terminate all or any of the LLS Funding Agreements.

## **9. ADDRESS FOR SERVICE**

- 9.1. LLS's address for service will be as set out in the LLS Funding Agreements.
- 9.2. The Lawyers' address for service is 131 Westbury Close Balaclava Victoria 3183 and dburstyner@adleyburstyner.com.au.

## **9.3. CONFIDENTIALITY**

- 9.4. The Lawyers agree to keep the Confidential Information confidential and not to use them for any purpose other than as per the LLS Funding Agreements and these Terms unless



disclosure of any of this information by the Lawyers is agreed in writing by LLS or is required by law.

9.5. The obligations in clause 9.4 survive the termination of these Terms.

**10. VARIATION**

10.1. These Terms may only be varied in writing signed by the Lawyers and LLS.

**11. ACKNOWLEDGEMENT**

11.1. Neither LLS nor the Lawyers intend to be partners, or joint ventures with or to each other. Nothing in this document shall constitute LLS and the Lawyers as partners or joint ventures.

**12. GOVERNING LAW**

12.1. This document is entered into in Victoria, Australia, and is to be construed in accordance with and governed by the laws of Victoria. Any dispute is to be determined the courts of the State of Victoria.

**SIGNED by ADLEY  
BURSTYNER**

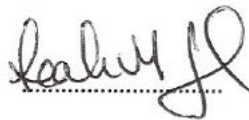


David Burstyner, director

**Signature**

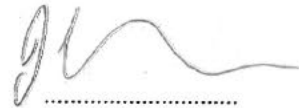
Date : 14 June 2020

**SIGNED by LLS FUND  
SERVICES PTY LTD**



**Director**

Date : 15 June 2020



**Company Secretary**

~~Director~~ Date : 15 June  
2020

Contact: David Burstyner  
Direct Line: 0411 072 743  
Direct Email: dburstyner@adleyburstyner.com.au  
Your ref:

14 June 2020

Mr G & Mrs L Iddles  
[REDACTED]  
[REDACTED]

Dear Geoffrey and Lynden,

### Fonterra Class Action – Conditional Cost Agreement

Thank you for instructing us to act for you in relation to this matter.

We confirm the matter is a class action against Fonterra, which has been discussed at length with you in the past, including:

1. That you wish to be a representative plaintiff, although that may ultimately not end up being the case and your role might change in the future, whether to a sample group member or a class member, depending on what is considered best for the class action's success.
2. You understand the additional responsibilities of being a representative plaintiff, and the time commitment and obligations to the case and Court that come with it. It is a significant burden, compared with the far more passive role of being a group member (but there will be no case without a representative plaintiff).
3. If you keep good records of your time contributed to the case, and any expenses, you may be able to make a recovery for them.

This letter and its attachments set out the terms of our engagement, contain the disclosures required under our professional regulations and, upon acceptance, comprise our costs agreement with you. It is a conditional costs agreement, meaning that some of our fees only need to be paid if the case is successful. For that purpose, success means obtaining a recovery from Fonterra or related party or other defendant in proceedings, for the substance of your claim. It may be a partial recovery, in the sense that it will still be a successful outcome for these purposes if it is less than the full amount claimed. If and when there is such a recovery, our conditional fees and a 25% uplift on them become payable.

### Team

David Burstyner is the principal responsible for all issues relating to your matter. Daniel Fullerton, Senior Associate, will also work on your case. Barristers at this stage are Lachlan Armstrong QC (\$8,400 a day plus GST) and Laura Keily (\$4,000 per day including GST). Given the magnitude of your case, it is likely there will be additional team members.

### Total costs

We estimate the total costs for the work outlined in the scope of engagement will be [REDACTED] including barrister's fees and other significant expenses which we have at this stage estimated, but excluding GST. The budget in schedule 1 of the Litigation Funding Agreement details how these costs have been calculated and the tasks involved.

**Costs are only payable to the extent they are paid by a funder or as a result of a successful outcome, and out of its proceeds.** Accordingly:

- A. In the normal course of events **YOU WILL NOT HAVE TO PAY FEES FROM YOUR OWN POCKET**; and

- B. The scope of work, and costs covered by this agreement, is as set out in a Litigation Funding Agreement executed by you, or to be executed by you, on or about the same time as you enter this agreement.

Our estimates of the cost for the class action has been calculated based on the complexity and urgency of your matter, the instructions you have given and the experience and skill of the lawyers involved. Legal fees vary according to a number of contingencies, including unexpected problems, the co-operation of other parties and administrative and other delays beyond our control. We will do whatever we can to keep our fees within this estimate. An early settlement could mean significantly less than the estimated costs.

If the scope of the legal work required changes significantly or if our fees will otherwise exceed the estimate provided, we will notify you as soon as practicable and provide an estimate of our further fees.

In the event that the fees become payable due to one of the circumstances described above, then an uplift will also become payable, and will be charged, in exchange for us not requiring earlier payment and taking the risks of this agreement and the Litigation Funding Agreement. The uplift will be an increase amounting to 25% of the fees which were conditional and which have become payable.

An estimate of the total uplift fee is contained the budget in schedule 1 of the Litigation Funding Agreement.

The exact amount of any uplift will be determined by the stage at which the fees become payable, and the work done to that point in time.

If you are not a representative plaintiff, and there is individual legal work (as defined in the Litigation Funding Agreement), the applicable fees might need to be paid by you. But if that situation arises we will always inform you in advance and give you the all possible options to decide whether or not to incur fees. We do not expect that situation to arise.

### **Termination or Frustration of Our Engagement**

Termination includes lawyers other than our firm being instructed to act in court proceedings in respect of your claim, or entry into a funding agreement for the claim on terms which include that lawyers other than our firm will act in the claim (in all cases whether by you or any other person or entity). If our engagement is unilaterally terminated without good reason, then the conditional fees become immediately payable.

### **Next steps**

This letter together with its attachments constitute an offer to enter into a costs agreement in accordance with the scope of engagement and terms and conditions. Please read the scope of engagement and terms and conditions and confirm your acceptance in writing.

Please call David Burstyner on 03 9611 0137 with any query.

Yours faithfully,



**David Burstyner**  
**ADLEY BURSTYNER**  
Encl

**NOTIFICATION OF RIGHTS**  
**under Section 192 of the**  
**LEGAL PROFESSION UNIFORM LAW (Victoria) ('Uniform Law')**

**This Notification applies because you provided first instructions on or after 1 July 2015.**

The terms of this notice take precedent over anything to the contrary in our other disclosure and costs agreement documentation.

If you have any concerns about legal costs please contact the lawyer handling your file or that lawyer's supervisor. Alternatively contact David Burstyner on dburstyner@adleyburstyner.com.au

If your concerns are not satisfactorily resolved or a dispute arises you may: -

• **Request an itemised bill** within thirty (30) days of the date upon which legal costs become payable. However, if the total amount of legal costs specified in the itemised bill is more than the amount specified in the lump sum bill for the same matter we may be able to recover the higher or additional amount if the costs are determined to be payable after a costs assessment under Section 198 or after a binding determination under Section 292 of the Uniform Law.

• **Lodge a Costs Dispute Complaint** under Division 1 of Part 5.2 of the Uniform Law with the Victorian Legal Services Commission (**'Commission'**) within sixty (60) days of the legal costs becoming payable or if an itemised bill was requested within thirty (30) days of the request being complied with. The Commission may waive the time limits specified if satisfied that: -

- the Complaint is made within four (4) months of the specified period, and
- after having regard to the delay and the reasons for the delay, it is just and fair to deal with the Complaint out of time; and
- we have not commenced legal proceedings in respect of the legal costs.

The Commission can only deal with costs disputes where legal costs are less than \$106,835 or where legal costs are equal to or more than \$106,835, but the total in dispute is \$10,685 or less. These figures are subject to indexation.

• Provided you are **not** a 'commercial or government client' as defined in Section 170 (2) of the Uniform Law, **Seek a Costs Assessment** under Division 1 of Part 4.3 of the Uniform Law by the Costs Court of the Supreme Court (**'Costs Court'**). The application for assessment must be made within twelve (12) months of:-

- a bill being given; or
- a request for payment being made; or
- legal costs being paid, if neither a bill nor a request was made.

An application can be made after that period and may be allowed if, after having regard to the delay and reasons for the delay, the Costs Court is of the view that it is fair and just for the application to be heard out of time.

**INTEREST**

If the bill remains unpaid for more than thirty (30) days of being given, we will charge interest in accordance with Section 195 of the Uniform Law or the terms of the costs agreement, if those terms are different from the Uniform Law. The rate of interest is the Cash Rate Target, as specified by the Reserve Bank of Australia plus 2%. The Cash Rate Target is subject to change you can check the applicable rate at [www.rba.gov.au](http://www.rba.gov.au)

**NOTICE OF WITHDRAWAL OF TRUST MONEY**

If money has been paid into the Adley Burstyner trust account for or by you we hereby notify you that we will withdraw money from trust and apply it towards payment of our legal costs.

We may withdraw the money from trust in accordance with Rule 42(3) of the Legal Profession Uniform General Rules 2015 as follows:

- (a) if you do not object to the amount specified in the bill within seven (7) business days after you were given the bill; or
- (b) if you do object to the amount specified in the bill within seven (7) business days of being given the bill, but you have not referred the matter to the Commission or the Costs Court for Costs Assessment and thirty (30) days after the later of the following dates has expired:
  - (i) the date you were given the bill;
  - (ii) after a request under Section 187 of the Uniform Law, the date you received an itemised bill; or
- (c) if the money otherwise becomes legally payable.

## TERMS AND CONDITIONS

This is our agreement with you as required by the Legal Profession Uniform Law (Victoria) (**Uniform Law**) that tells you:

- an estimate of total legal costs and expenses and the basis upon which our estimated fees are calculated; or
- total legal costs where our fees are a fixed amount and expenses incurred on your behalf are estimated; and
- your rights in relation to costs.

### The basis upon which our fees will be calculated

Our fees are calculated in one of three ways: as a fixed amount, based on our hourly rates, or a combination of both. Our scope of engagement indicates the basis on which our fees are calculated in relation to your matter.

### When our fees are fixed

Where our fees are fixed, they may be fixed for a task, a period of time or on another basis. Our scope of engagement indicates the work to which our fixed fee relates.

### When our fees are calculated based on hourly rates

In addition to our fees we will charge you at cost for any expenses we incur on your behalf. Such expenses might be barrister's fees, court filing fees, costs of external administration or document management services, Titles Office fees, company search fees and fees payable to legal agents and any GST on these expenses. For litigation and related document needs and court services we frequently use the service provided Law in Order, although we may use other providers if we determine that's appropriate. Your instructions to us include authorisation to incur such expenses for you, and as your agent we may cause those expenses to be incurred in your name.

### Expenses we incur on your behalf

In addition to our fees we will charge you at cost for any expenses we incur on your behalf. Such expenses might be barrister's fees, court filing fees, costs of external administration or document management services, Titles Office fees, company search fees and fees payable to legal agents and any GST on these expenses. For litigation and related document needs and court services we frequently use the service provided Law in Order, although we may use other providers if we determine that's appropriate. Your instructions to us include authorisation to incur such expenses for you, and as your agent we may cause those expenses to be incurred in your name.

If, in providing legal services for you, it becomes necessary to engage another law practice (including barristers) to provide specialist advice or services, we will consult you about the terms of this engagement before incurring the expense. We will provide you with a statement setting out the rates and estimated costs of any other law practice we propose to engage as soon as this information is available.

We may request that you provide us with payment in advance of us incurring an expense on your behalf. These funds will be held in our trust account until payment of the expense is required. And, for court matters, we require that between \$10,000 and \$100,000 (depending on the magnitude of the case) be maintained in our trust account. In respect of costs for third parties, for example barrister's fees, funds provided in advance may be held in those parties' trust accounts (to the extent not prohibited).

### Estimated total legal costs

The total legal costs, including expenses, for this matter are set out in our scope of engagement.

### Change to our scope of engagement

Where our scope of engagement is for a limited amount of work in a matter that changes, we endeavour to inform you of the possible total legal costs you could incur so that you can make an informed decision about incurring legal costs for the limited stage.

If it becomes necessary to carry out work outside the scope of engagement we will notify you and provide you with either a revised price or an estimate of the costs for that work.

### Your rights

You have the right to:

- negotiate with us a costs agreement or a billing method with us (for example, by reference to timing or a task);
- to receive a bill from Adley Burstyner and to request an itemised bill within 30 days of receiving a bill that is not itemised or is only partially itemised; and to
- seek assistance from the Victorian Legal Services Commissioner if you dispute our legal costs.

The Legal Profession Uniform Law may provide the right to seek a costs assessment (for example under section 198).

### Award of costs in court proceedings

Costs between disputing parties are determined at the discretion of the court which can award all or part of them in favour of either party, or not at all. If a party is successful, the court may require that the other party pay some or all of the successful party's costs. If a party is unsuccessful, that party may be required to pay all or some of the successful party's costs.

### Payment and interest on overdue accounts

Unless our scope of engagement states otherwise:

- we will invoice you for the work we have done for you either on completion of a task, monthly or at other regular intervals;
- we require our tax invoices to be paid within 14 days of the date of the tax invoice or, where we require payment in advance, before we commence work.

If our tax invoice is not paid within 14 days interest will be charged as stated in the notification of rights provided with this document. If we take steps to recover or attempt to recover our unpaid tax invoice, you will be liable to pay all costs and expenses incurred by us including legal costs and agent's fees on an indemnity basis. We do not have the facility to accept payment by credit card.

### Your privacy

The information we collect from you will only be used and disclosed for the purpose of accurately representing you and for meeting our legal obligations. In certain circumstances, your information may be disclosed to the courts, the Law Institute of Victoria, our insurers, barristers and other lawyers. You have the right to access your personal information, subject to exceptions governed by privacy law. If you fail to provide us with any required personal information this may reduce the effectiveness of our representation and impact the outcome of your matter. You can access our privacy policy via our website [www.adleyburstyner.com.au](http://www.adleyburstyner.com.au) or we will provide you with a copy on request.

### Terminating our engagement

You may terminate our engagement in writing at any time. We will send you a tax invoice up to the date of the termination for an amount of the work then completed being the applicable proportion of the agreed price plus any expenses. Until payment of the amount of your tax invoice, and any interest payable, we will retain any documents or files which we hold on your behalf. We may also exercise a right to the proceeds created by any work we have done.

### Destruction of your file

We will destroy your file seven years from the conclusion of your matter. Prior to that time, you can make arrangements to collect it from us provided all money you owe us is paid in full. If your file is in electronic form, it will be returned to you in PDF form only.

### Declaration in relation to trust money

At the time of entry into this agreement Adley Burstyner has not yet established a trust account, however it may do so in the future. Any trust money received by Adley Burstyner on your behalf at such time will be banked in a general trust account operated by Adley Burstyner in Victoria. A trust account is subject to supervision by the Victorian Legal Services Board and is maintained in accordance with the Legal Profession Uniform General Rules 2015 (**Rules**) and the Uniform Law, effective at the time of the deposit. Any claim in relation to trust money must be made under Victorian law.

### Bank Account Details – Email Security

If you receive payment instructions for a different bank, branch, account name or account number, other than the account details we initially provided to you, the differing details should be presumed fraudulent. Do not send any funds and contact our office immediately. If you make a payment to an account other than the one we advise you about, then it will not be considered as payment to Adley Burstyner and any Adley Burstyner will have no liability in respect of the non receipt of those funds, and Adley Burstyner is entitled to act, for all purposes, as if that payment has not been made. Before making a payment to any other account you are required to speak in person or on the telephone (or similar audio / video facility allowing recognition) with David Burstyner or any other person David has previously told you personally and in writing is an authorised representative of the firm. In both cases you are still required to also obtain confirmation in writing which specifies the bank details.

### Authority to draw on trust money

You **authorise** us to obtain payment out of any money held in the trust account of Adley Burstyner on your behalf to pay our legal fees as they become due and payable, in accordance with the provisions of the Uniform Law and the Rules relating to the withdrawal of trust money for legal costs. You also authorise us to draw on any money received into any trust account Adley Burstyner may in the future have on your behalf to pay our legal fees as they become due and payable, in accordance with the provisions of the Uniform Law and the Rules relating to the withdrawal of trust money for legal costs. You will be provided with any required trust statement at the conclusion of your matter. You authorise us to apply any recovery to towards our entitlements. Unless it is unlawful, the authorities in this clause regarding trust money and payment of our fees are irrevocable. **You have the right to seek independent legal advice before entering into this costs agreement.**

## **ADDITIONAL TERMS, DISCLOSURES AND INFORMATION**

“you” means Lynden and Geoffrey Iddles

“we” means Adley Burstyner

### **Disclosure of potential conflict of interests**

Arrangements underpinning class actions may create a potential for conflicts of interests between you, our lawfirm and possibly other parties. We take great care to protect our clients’ interests, and we have professional obligations to do so. We have implemented a conflict management policy, so that we remain conscious of where a conflict might arise and have established methods for managing it. One important method is being up front with you by disclosing the following potential for conflicts of interests (which we are actively managing):

- There may be differences between your claim and others involved in the same case, and those differences could create conflict or require sacrifices and compromises, and appropriate litigation strategy
- The funder is responsible for ongoing costs of a court case and is exposed to adverse costs, so it is motivated to support an appropriate resolution and not prolong any claim process, on the other hand you are not exposed to funding costs and have little or no costs of court action continuing (other than potential loss of your claim, or delay in receiving funds)
- Whereas litigation funders and claimants have an interest in minimising legal costs (to maximise the respective net returns) this could be classed as inconsistent with our financial interests in performing work so we get paid for it
- You have an interest in minimising the fees paid to funders, whereas funders’ interest is maximising those fees.
- We have an interest in maintaining an ongoing relationship with litigation funders, and there may be potential for us to provide significant services and fees in other matters to that funder, perhaps more than with you. We may wish to propose matters to the litigation funder in the future. However, we do not consider we are compromising your interests, as we consider it paramount to in this regard treat each case individually and do our best for our clients in each case.
- The financial arrangements might be mostly agreed as between the funder and Adley Burstyner, with less input from you than where there is no funder. Those arrangements could include components which the funder doesn’t in substance pay for ultimately or at all (for example this may occur with some conditional fees). This creates an opportunity that we would charge more than if there was more sophisticated oversight or bargaining power. On the other hand, we consider that we behave reasonably and equitably in respect of our fees, and you are always free to ask us for more details about how we charge. Also important is that there is a high level of Court oversight of settlements and legal fees in class actions. We *may* provide for to the appointment of a more independent person such as a costs supervisor or referee.
- Adley Burstyner will obtain fees if the matter proceeds, which creates a potential conflict with its duty and promise to give clients and related parties independent advice on the matters such as weaknesses, prospects of success and overall litigation strategy. Adley Burstyner promises to keep paramount the duty to clients and related parties.

If you would like to see a full copy of our Conflict Management Policy please request it by an email to [dburstyner@adleyburstyner.com.au](mailto:dburstyner@adleyburstyner.com.au).

### **Class action**

Adley Burstyner may accept engagement and instructions from other persons in connection with this matter, namely other dairy farmers who supplied Fonterra in the financial year 2015/2016, given it is a class action.

Save for where Adley Burstyner’s professional opinion is that specific instructions are required from you, Adley Burstyner is authorised to make day to day decisions in the class action.

Lynden and Geoffrey Iddles agree to:

1. provide Adley Burstyner with full honest and complete instructions documents and information within a reasonable time, and cooperate with Adley Burstyner and all other relevant persons (for example

barristers and the funder) in connection with the conduct of the proposed, and do all that is reasonable asked.

2. strictly maintain privilege and confidentiality about the class action, including discussions with Adley Burstyner and the case team (barristers and experts)

Adley Burstyner is not obliged to continue with the case if the funder ceases to pay and / or we consider the prospects of success the case are too low to justify continuing. We may also terminate our engagement if you do not provide full or complete or honest instructions,

In so far as the Litigation Funding Agreement provides arrangements for payment of legal costs and charges of Adley Burstyner, and treatment of any recovery, including any deductions to be made, you also agree in this agreement to those terms, as if they were set out in this agreement.

### Dispute Resolution Matters

If your matter is unsuccessful, or partly unsuccessful for applications during the case, it is likely that the Court will order you party to pay some of the other party's legal costs. These costs are usually calculated by applying the relevant Court scale of costs applicable to your matter. We estimate that this amount could range between [REDACTED] for a loss of the whole case. For just an application, those costs might be anywhere from a few thousand dollars to several hundred thousand dollars, very approximately because every application will be different. Under the Litigation Funding Agreement, the funder has undertaken to pay those costs and [REDACTED] and honours its undertaking that provides favourable reduction of that exposure.

### Cooling Off

You have the right to terminate this agreement by giving us written notice within five (5) clear business days from when we receive from you a signed version of this agreement. Where such termination occurs, you will still pay fees for work performed prior to the termination. In that circumstance fees will be calculated on an hourly basis at our undiscounted rates.

### Hourly rates

If any part of our fees is to be calculated based on hourly rates, the hourly rates of the lawyer responsible for your matter and other staff who may assist in the matter are as follows, before accounting for any conditional fee arrangement:

**Principal:** David Burstyner [REDACTED]  
**Senior Associate:** Daniel Fullerton [REDACTED]

Our hourly rates may be increased or decrease by us once a year, normally around 1 July with an increase of 5%. There will be no such increase on 1 July 2020.

### Our bank account

Bank: [REDACTED]  
BSB No [REDACTED]  
Account No: [REDACTED]  
Account Name: [REDACTED]  
Reference: [REDACTED]

**IF YOU THINK OUR BANK ACCOUNT HAS CHANGED, BEFORE MAKING A PAYMENT TO ANY OTHER ACCOUNT PLEASE:**

1. **SPEAK IN PERSON OR ON THE TELEPHONE (OR SIMILAR AUDIO / VIDEO FACILITY ALLOWING RECOGNITION) WITH:**
  - o DAVID BURSTYNER; OR
  - o ANY OTHER PERSON DAVID HAS PREVIOUSLY TOLD YOU PERSONALLY AND IN WRITING IS AN AUTHORISED REPRESENTATIVE OF THE FIRM; AND
2. **ALSO OBTAIN CONFIRMATION IN WRITING, WHICH STATES THE NEW ACCOUNT DETAILS.**

**ACKNOWLEDGMENT AND ENTRY INTO CONDITIONAL COSTS AGREEMENT**

**Client:** Geoffrey Iddles and Lynden Iddles

**Matter Description:** Fonterra Class Action

This document is an offer to enter into a conditional costs agreement in accordance with the scope of engagement and terms and conditions. The agreement comprises all of the previous 6 pages.

Signing this authority confirms the engagement of Adley Burstynner and the conditional costs agreement, on the terms set out

Please sign the acknowledgment below and return the complete document to us by email or post.

.....  
Signature Lynden Iddles

.....  
Signature Geoffrey Iddles

15 June 2020

Also **SIGNED** for and on behalf of )  
**LLS Fund Services Pty Ltd ABN 51 627 975 213 by** )  
**its directors in accordance with s.127 of the** )  
**Corporations Act 2001,** as acknowledgment of )  
this disclosure and conditional costs agreement )  
having regard to its obligations to make )  
payments on behalf of Geoffrey and Lynden )  
Iddles under the terms of a Litigation Funding )  
Agreement )

\_\_\_\_\_  
Director

) Print Name:  
)

) \_\_\_\_\_  
) Director / Secretary  
) Print Name:

DATE: 15 June 2020

*NOTE ON POST-EXECUTION VERSION PRODUCED PURSUANT TO 1 JULY 2020 CLASS ACTIONS PRACTICE NOTE - FUNDER HAS NOT EXECUTED COSTS AGREEMENT.*