

# MSF Marketing - 2022 Maryborough Collective Forward Pricing Pool Terms

## 1 KEY FEATURES

### 1.1 Overview

- (i) The 2022 Maryborough Collective Forward Pricing Pool (**Pool**) is a Committed ICE 11 Pool.
- (ii) All growers in the Maryborough and Sunshine Coast regions that are parties to Grower Pricing Agreements that have allocated Cane Pay Sugar to this Pool will receive the same Maryborough Collective Forward Pricing Pool Net Pool Price.
- (iii) The gross price achieved by the Pool for the 2022 Season will be the average price achieved from the ICE 11 futures market, converted from US dollars (**USD**) to an AUD return, adjusted after deducting the direct costs for the Pool determined in accordance with these Pool Terms, expressed on an AUD per tonne IPS basis (**Gross Pool Price**). The net price achieved in respect of the Pool will be the Gross Pool Price, adjusted after allowing for the MSF Marketing Shared Pool allocation for the Pool determined by MSF Marketing in accordance with the MSF Marketing Shared Pool Terms, expressed on an AUD per Tonne IPS basis (**Net Pool Price**). The final price achieved by all growers will be equivalent to the Net Pool Price.

### 1.2 Pool Manager

- (i) The Pool is managed by MSF Marketing. MSF Marketing is responsible for all of the management functions of the Pool.
- (ii) Target Prices, comprising an AUD equivalent ICE 11 price, and quantity of Cane Pay Sugar which MSF Marketing is to seek to price at that Target Price, are set by a panel of growers, established for this purpose, for and on behalf of the growers that elect to participate in this Pool (**Maryborough Target Price Panel**).
- (iii) MSF Marketing in its sole discretion may determine how it seeks to achieve Target Prices set by the Target Price Panel. MSF Marketing will achieve a Target Price notified by the Target Price Panel if it enters into a Risk Management Contract(s) with a third party or parties which reflects that Target Price.
- (iv) MSF Marketing will notify the Target Price Panel within 2 Business Days if it achieves a Target Price (in whole or part) set by the Target Price Panel.

### 1.3 Target Price Panel Membership

- (i) Members of the Target Price Panel are active cane growers in the Maryborough region that hold current Cane Supply Agreements with the Mill Owner.
- (ii) Membership of the Maryborough Target Price Panel will be determined by the Board of Maryborough CANEGROWERS and may include growers that are not members of Maryborough CANEGROWERS.
- (iii) Membership of the Maryborough Target Price Panel can change during the life of this Pricing Pool and is subject to further conditions agreed between the Mill Owner and Maryborough CANEGROWERS.

### 1.4 Availability

This Pool is available to all growers that supply cane to the Mill Owner for whom MSF Marketing is their Nominated Pool Manager under their respective Grower Pricing Agreements.

### 1.5 Pre-conditions

This Pool may not operate if less than 10,000 metric tonnes of Cane Pay Sugar is allocated, in total, to the Pool by growers of the Maryborough and Sunshine Coast region by the end of the Allocation Period (see below), unless the Target Price Panel notifies the Pool Manager within 7 days thereafter that the Pool is to operate.

### 1.6 Pricing Window

Subject to paragraph 2.2, the Target Price Panel is permitted to set Target Prices commencing at the conclusion of the Allocation Period (see below) up to and including the 18<sup>th</sup> of February 2022 (**Pricing Window**) or as otherwise notified by MSF Marketing.

### 1.7 Mill Margin Sugar

The Pool will not contain Mill Margin Sugar<sup>1</sup>.

### 1.8 Allocation Requirements

- (i) The Allocation Period for the Pool commences on the 1<sup>st</sup> June 2020 and concludes on the 31<sup>st</sup> July 2020. The Pool will be closed to new participants on and from the day following the conclusion of the Allocation Period and growers that have previously submitted an Election Notification are unable to change their Election Notification as at that date.
- (ii) To participate in the Pool, a grower must (through its Authorised Person) give an Election Notification to the Mill Owner during the Allocation Period.
- (iii) The Election Notification must specify the tonnage of the grower's Cane Pay Sugar which the grower wishes to allocate to the Pool.

### 1.9 Target Price Panel Requirements

- (i) Target Price notifications are to be given by the Maryborough Target Price Panel in the form and in the manner nominated by the Mill Owner from time to time.
- (ii) Target Prices and applicable quantities of Cane Pay Sugar can be amended or withdrawn (**Target Price Amendment**) by the Maryborough Target Price Panel during the Pricing Window provided MSF Marketing has not achieved the Target Price in respect of any portion of the Cane Pay Sugar the subject of the Target Price Amendment.
- (iii) Target Price Amendments must be given in the form and in the manner nominated by the Mill Owner from time to time.
- (iv) MSF Marketing may be seeking to enter into Risk Management Contracts in overnight international markets to enable it to respond to Target Prices set by the Maryborough Target Price Panel.
- (v) MSF Marketing requires that any Target Price notification, or amendment or cancellation, is received by the Mill Owner before 3.00pm on a

Business Day to enable it to place a request and seek to enter into Risk Management Contracts.

- (vi) To enable MSF Marketing to respond to Target Prices set by the Maryborough Target Price Panel based on trading on overnight international markets, any Target Price notification or variation or cancellation of a Target Price received after 3.00pm on a Business Day and before 9:00am on the next Business Day will take effect, at 9:00am on the next Business Day.

### 1.10 Minimum / Maximum Allocation

- (i) A grower is not required to allocate a minimum tonnage to the Pool in order to participate.
- (ii) Including Existing Pricing, a grower must not allocate Cane Pay Sugar to this Pool if that allocation would result in the grower's aggregate allocations of Cane Pay Sugar to Committed ICE 11 Pools to exceed 60% of the grower's Estimated Cane Pay Sugar.

### 1.11 Participation in Tonnage Priced and Price Achieved

- (i) MSF Marketing is entitled to combine tonnages allocated to this Pool with tonnages of Cane Pay Sugar allocated to other Pricing Pools and tonnages of Mill Margin Sugar, to be priced at a particular Target Price for the Season.
- (ii) If, for any reason, in respect of any one day, the aggregate of Cane Pay Sugar tonnage allocated to all Pricing Pools and the tonnage of Mill Margin Sugar to be priced at a particular Target Price, exceeds the tonnage that MSF Marketing is able to price at the particular Target Price (for example, due to lack of market opportunity), the tonnage priced on that day at that particular Target Price will be shared pro-rata between the Mill Owner, Pool participants and other Pricing Pool participants who have unpriced Cane Pay Sugar at the commencement of the day to be priced at that Target Price.
- (iii) If MSF Marketing is able to achieve a higher price than the Target Price, the actual price achieved is used in the calculation of the Gross Pool Price.

### 1.12 Unpriced Tonnage

- (i) Allocated Cane Pay Sugar that is not priced by the conclusion of the Pricing Window for that Season will not be priced in the Pool and will:
  - (A) be able to be allocated by the grower to an in-season Committed ICE 11 Pool for the Season, subject to the relevant Pricing Pool Terms and the grower (through its Authorised Person) giving an Election Notification accordingly; or
  - (B) in the absence of an Election Notification in accordance with sub-clause (A) above, be automatically allocated to the MSF Marketing Default Pool for the Season.

### 1.13 Application of Pool Terms

These Pool Terms will apply to the 2022 Season and to Cane Pay Sugar for the 2022 season.

<sup>1</sup> Mill Margin Sugar is the difference between total raw sugar production for the 2022 Relevant Season less total Cane Pay Sugar of all growers.

## 2 MANAGEMENT STRATEGY

### 2.1 Objective

The Target Price Panel aims to fix AUD equivalent ICE 11 prices that, in the opinion of the Target Price Panel members, are attractive or acceptable having regard for the general cost of cane production in the Maryborough region.

### 2.2 Setting of Target Prices

The setting of Target Prices is a matter for the Target Price Panel and MSF Marketing is not responsible or liable for any conduct of the Target Price Panel, including any Loss suffered by a grower in connection with the conduct of the Target Price Panel.

### 2.3 Management Parameters

- (i) The Target Price Panel is not obligated to set Target Prices for any or all of the Cane Pay Sugar comprising the Pool.
- (ii) The Target Price Panel may set Target Prices for all of the Cane Pay Sugar comprising the Pool as soon as the Pricing Window commences, subject to the following timeframe dependent Pool Specific Pricing Limits.

| Timeframe           | Pool Specific Pricing Limits   |
|---------------------|--|
| 1/1/2020-31/12/2020 | Target Price Panel pricing is limited to 50% of all participating growers' Estimated Cane Pay Sugar or the total quantity of Cane Pay Sugar allocated to the Pool by growers, whichever is less. |
| 1/1/2021-18/2/2022  | Target Price Panel pricing is limited to 60% of all participating growers' Estimated Cane Pay Sugar or the total quantity of Cane Pay Sugar allocated to the Pool by growers, whichever is less. |

- (iii) The Pool Manager is able to use the following derivatives in managing the Pool: ICE 11 futures contracts (MSF Marketing sells), foreign exchange contracts (MSF Marketing sells USD) and raw sugar commodity swaps (MSF Marketing sells, both AUD and USD denominated).

## 3 KEY CHARACTERISTICS

### 3.1 Marketing Responsibilities

MSF Marketing will undertake the physical marketing of Cane Pay Sugar in the Pool.

### 3.2 Futures Exposures

The ICE 11 futures exposure of the Pool will be determined by MSF Marketing.

### 3.3 Supply Obligations

- (i) The Pool is a Committed ICE 11 Pool which means that if a grower allocates Cane Pay Sugar to the Pool, the grower is required to deliver sufficient Cane to the Mill Owner to produce the relevant Cane Pay Sugar.
- (ii) In the event that a grower is unable to meet this commitment, the financial consequences for the grower will be determined in accordance with its Grower Pricing Agreement (which include, for example, the triggering of Close-Out Losses or Close-Out Profits).
- (iii) The financial consequences associated with the failure of a grower to supply required Cane will not impact other participants in the Pool.

### 3.4 Grower Share of Pricing

A grower's share of pricing that is undertaken in this Pool will be equivalent to that grower's proportion of total Cane Pay Sugar allocated to

this Pool by all growers that participate in this Pool.

### 3.5 Cane Pay Advances

Advance payments for Cane supplied by a grower will be made on the basis of and in accordance with its Cane Supply Agreement.

### 3.6 Costs of Pool Operation

- (i) All costs and expenses directly associated with the operation of the Pool will be included in the calculation of the Gross Pool Price. These costs are likely to include, but will not be limited to, futures brokerage fees and interest on margin calls.
- (ii) Any other costs and expenses associated with the operation of the Pool will be allocated to the Pool in accordance with the MSF Marketing Shared Pool Terms as applicable.

### 3.7 Pool Administration Fee

All growers for whom MSF Marketing is their Nominated Pool Manager, share in the cost to administer and manage grower Cane Pay Sugar allocations through the MSF Shared Pool. As such, a separate fee to administer and manage grower Cane Pay Sugar allocations (Administration Fee) is not charged.

## 4 RISK PROFILE

### 4.1 Price Risk

- (i) The Target Price Panel has, subject to paragraph 2.3 above, full discretion over the Target Price setting process including the AUD equivalent ICE 11 price, the quantity to fix at that price and the timing of setting and notifying Target Prices to the Pool Manager.
- (ii) Given that the Target Price Panel sets Target Prices on behalf of a collection of growers and that the cost of producing cane varies between growers, there is no guarantee that the average AUD equivalent ICE 11 price achieved by this Pool will secure a gross margin for all or any of the growers that participate in this pool.
- (iii) MSF Marketing may not be able to achieve Target Prices set by the Target Price Panel from time to time.
- (iv) MSF Marketing, in seeking to achieve Target Prices set by the Target Price Panel, will act in accordance with MSF Marketing's Risk Management Policy<sup>2</sup>.

### 4.2 Production Risk

- (i) The production risk for a grower is higher in respect of this Pool when compared to Non-Committed ICE 11 Pools due to the grower having to commit Cane to produce the Cane Pay Sugar allocated to the Pool before it is actually produced.
- (ii) In the event that a grower is unable to meet this commitment, the financial consequences for the grower could include Close-Out Losses.

### 4.3 Audit

The Net Pool Price and MSF Marketing's adherence to the Risk Management Policy will be independently audited on the basis determined by MSF Marketing from time to time in consultation with a panel of growers established for the purpose of providing a single point of reference for such transparency related matters (Grower Reference Panel).

## 5 LIABILITY, CLAIMS AND INDEMNITIES

- (i) Subject to any law to the contrary and to the maximum extent permitted by law, members of the Target Price Panel (Relevant Parties) are not liable for and disclaim all liability for any direct, indirect or consequential loss, cost or

expense (including legal fees on a full indemnity basis) or damage (Loss) suffered or incurred by any person as a result of the adoption of the method to determine the Gross Pool Price set out in these Pool Terms or the application or outcomes of the Risk Management Policy, and whether the Loss arises in relation to, in connection with or as a result of any negligence, default or lack of care on the part of the Relevant Parties, or from any misrepresentation or any other cause.

- (ii) Each grower agrees that it will not make any claim or bring or institute any legal proceedings against any Relevant Party in relation to the determination of the Gross Pool Price in the manner set out in these Pool Terms or the application or outcomes of the Risk Management Policy.
- (iii) Each grower agrees to release the Relevant Parties from any liability which (notwithstanding the disclaimer in paragraph 5(i) above) may arise, whether directly or indirectly, in relation to, in connection with, or as a result of the determination of the Gross Pool Price in the manner set out in these Pool Terms or the application or outcomes of the Risk Management Policy, including any liability resulting from any negligence, default or lack of care on the part of the Relevant Parties or from any misrepresentation or any other cause.
- (iv) Each grower indemnifies the Relevant Parties against all liability or loss in relation to, or in connection with or as a result of a breach of these Pool Terms.

## 6 DISCLAIMER

### 6.1 Limitation

To the extent permitted by law, MSF Marketing is not liable for and disclaims all liability for any Loss suffered or incurred by any person which arises out of these Pool Terms, and whether the Loss arises as a result of any negligence by MSF Marketing or any other cause.

### 6.2 Release

The grower releases MSF Marketing and its officers, directors, employees, agents or related bodies corporate from its liability for any Loss suffered by the grower arising out of these Pool Terms.

### 6.3 Indemnity

The grower indemnifies MSF Marketing against all liability or loss in relation to, or in connection with or as a result of a breach of these Pool Terms.

### 6.4 AFSL

The grower acknowledges that:

- (i) MSF Marketing does not hold an AFSL; and
- (ii) within a reasonable period before these Pool Terms were entered into, MSF Marketing informed the grower that MSF Marketing did not hold an AFSL.

### 6.5 Reliance on Information

- (i) MSF Marketing may, from time to time, provide the grower with information, documents, statements, opinions and data (both in written and oral form) in relation to Cane and sugar pricing, including in relation to this Pool (Information).
- (ii) MSF Marketing and its Related Bodies



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<sup>2</sup> The risk management policy adopted by MSF Marketing from time to time to manage Pool price and other risks.

Corporate, directors, officers, employees or representatives do not make any representation or warranty, express or implied as to the currency, accuracy, reliability or completeness of the Information.

- (iii) The grower acknowledges and agrees that:
  - A. it must make and solely rely upon its own independent investigation, judgment and assessment of the Information;
  - B. it will obtain its own independent legal, financial and other advice in relation to the content of the Information; and
  - C. MSF Marketing and its Related Bodies Corporate, officers, employees, independent contractors and representatives do not accept liability for any reliance placed on the Information by the grower.
- (iv) The grower is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of these Pool Terms.
- (v) The grower is capable of assuming, and assumes, the risks of or in any way connected with these Pool Terms and amongst other risks, understands that past performance of the Pool is not indicative of future performance

## **7**

### **INTERPRETATION AND RELATED DOCUMENTS**

- 7.1** This document is to be read in conjunction with the following documents:
  - (i) Grower Pricing Agreement;
  - (ii) Cane Supply Agreement; and
  - (iii) MSF Marketing Shared Pool Terms.
- 7.2** Capitalised terms not otherwise defined in these Pool Terms have the same meaning as in the Grower Pricing Agreement.
- 7.3** A reference to Cane Pay Sugar is a reference to Cane Pay Sugar of all growers for whom MSF Marketing is the Pool Manager under their respective Grower Pricing Agreements unless the reference is to that of a specific grower only.