

Form 604
Corporations Act 2001
Section 671B

Notice of change of interests of substantial holder

To Company Name/Scheme Sugar Terminals Limited

ACN/ARSN ACN 084 059 601

1. Details of substantial holder (1)

Name Mackay Sugar Limited

ACN/ARSN (if applicable) ACN 057 463 671

There was a change in the interests of the
substantial holder on 01/10/13
The previous notice was given to the company on 15/02/13
The previous notice was dated 15/02/13

2. Previous and present voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
'M' Class Shares	30,130,150	8.37%	32,730,150	9.09%

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
01/10/2013	Mackay Sugar Limited	Acquisition of securities	85 cents per share (comprising cash)	2,600,000 'M' class shares	2,600,000
01/10/2013	Mackay Sugar Limited	Acquisition of relevant interest under section 608(8) Corporations Act in anticipation of performance of agreement for acquisition of securities from Bundaberg Sugar Ltd	85 cents per share (comprising cash), subject to adjustment in accordance with the terms of the acquisition agreement which is attached as annexure A .	12,728,437 'M' class shares	-

4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities	Person's votes
Mackay Sugar Limited	Mackay Sugar Limited	Mackay Sugar Limited	Relevant interest under section 608(1) (a) Corporations Act -- as registered holder of the securities	32,730,150 'M' class shares	32,730,150
Mackay Sugar Limited	Bundaberg Sugar Ltd	Bundaberg Sugar Ltd	Relevant interest under section 608(8) Corporations Act -- acquisition of relevant interest in 12,728,437 'M' class shares in anticipation of performance of an agreement for acquisition of securities from Bundaberg Sugar Ltd, subject to the qualifications set out in that agreement, which is attached as annexure A .	12,728,437 'M' class shares	-

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and applicable	ACN/ARSN (if applicable)	Nature of association
Not applicable		

6. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Mackay Sugar Limited	Racecourse Mill, Peak Downs Highway, Racecourse via Mackay Qld 4740

Signature

print name	<u>Donna Rasmussen</u>	capacity	<u>SECRETARY</u>
sign here	<u>[Signature]</u>	date	<u>4 / 10 / 13</u>

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 6 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
 - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (7) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included on any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

ANNEXURE A


SUGAR TERMINALS LIMITED ACN 084 059 601

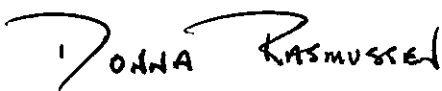
THIS IS ANNEXURE A OF 25 PAGES REFERRED TO IN FORM 604 – NOTICE OF CHANGE OF INTERESTS OF SUBSTANTIAL HOLDER


DETAILS OF SUBSTANTIAL HOLDER:

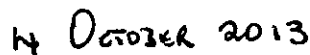
MACKAY SUGAR LIMITED ACN 057 463 671

I CERTIFY THAT THIS ANNEXURE IS A TRUE COPY OF THE SHARE SALE AGREEMENT DATED 1 OCTOBER 2013 FOR THE ACQUISITION OF UP TO 15,328,437 'M' CLASS SHARES IN SUGAR TERMINALS LIMITED ACN 084 059 601 BY MACKAY SUGAR LIMITED ACN 057 463 671 FROM BUNDABERG SUGAR LTD ACN 077 102 526.

SIGNED: 

NAME: 

POSITION: 

DATE: 

Share sale agreement

Bundaberg Sugar Ltd ACN 077 102 526

Mackay Sugar Limited ACN 057 463 671

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Share sale agreement

Dated 24 SEPTEMBER 2013

Parties

Seller Bundaberg Sugar Ltd ACN 077 102 526
of 4 Gavin Street, Bundaberg QLD 4670

Buyer Mackay Sugar Limited ACN 057 463 671
of Racecourse Mill, Peak Downs Highway, Racecourse via Mackay, Queensland 4740

Background

- A The Seller is the owner of the Sale Shares.
- B The Seller agrees to sell and the Buyer agrees to buy the Sale Shares on the terms of this document.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this document:

Term	Definition
Acceptance Notice	has the meaning set out in clause 6.3.
Acceptance Period	has the meaning set out in clause 6.3.
Actual Tranche Settlement Date	means the date on which the parties perform all of their respective obligations to complete the transfer of the Sale Shares to be transferred in the relevant Tranche.
Authorisation	means: (a) an approval, authorisation, consent, declaration, exemption, notarisation, licence, quota, permit or waiver, however described, and any condition attaching to it; (b) in the context of anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken, including any renewal or amendment.
Bankruptcy Act	means <i>Bankruptcy Act 1966</i> (Cth).
Business	means the business carried on by the Company at the date of this document.

Term	Definition
Business Day	means a day that is not a Saturday, Sunday or public holiday in Queensland.
Call Option	means the option granted to the Seller by the Buyer pursuant to clause 5.
Claim	means any claim, action, proceeding or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Company	means Sugar Terminals Limited ACN 084 059 061.
Completion	means completion of a Tranche under this document.
Completion Date	means 1 October 2013, or another date the parties agree on in writing.
Continuing Clauses	means clauses 1, 10 and 13.
Contract	means any arrangement, contract, deed, instrument, lease, licence, security, trust, understanding or undertaking to which the Company is a party or which binds it or any of its assets, or under which the Company has rights.
Corporations Act	means <i>Corporations Act 2001</i> (Cth).
Deferral Notice	has the meaning given to that term in clause 3.3(b).
Encumbrance	means: <ul style="list-style-type: none"> (a) a PPS Security Interest; (b) any other mortgage, charge, pledge or lien or a preferential or adverse interest of any kind; (c) a right of any person to purchase, occupy or use assets (including under a hire purchase agreement, option, licence, lease or agreement to purchase); (d) a right to set-off or right to withhold payment of a deposit or other money; (e) an easement, restrictive covenant, caveat or similar restriction over property (except, in the case of land, a covenant noted on the certificate of title to the land concerned); (f) an agreement to create any of the items referred to in paragraphs (a) to (e) above or to allow any of those items to exist; (g) a notice under section 255 <i>Tax Act (1936)</i>, subdivision 260-A in schedule 1 <i>Taxation Administration Act 1953</i> (Cth), or any similar legislation; or (h) any other right (including under a trust or agency arrangement) of a creditor to its claims satisfied before other creditors with, or from the proceeds of, or by recourse to any asset and includes any agreement, arrangement or deed conferring that right.
Exercise Price	means the aggregate amount paid by the Buyer to the Seller for the Option Shares less 10%.
Extended Tranche Settlement Date	has the meaning given to that term in clause 3.3(b).

Term	Definition
Government Agency	means: (a) a government or government department or other body; (b) a government, semi-governmental or judicial person; or (c) a person (whether autonomous or not) who is charged with the administration of a law.
GST	has the meaning given to that term in the GST Act.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
ICE	means Intercontinental Exchange, Inc.
Liability	includes liabilities, duties and obligations of any nature affecting the person concerned, however arising, including penalties, fines and interests, and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
Long Stop Date	has the meaning given to that term in clause 3.3.
Loss	includes losses, damages, costs, expenses and liabilities, however arising, including those that are prospective or contingent and those the <i>amount</i> of which is not ascertained or ascertainable, and includes loss of profit or expected profit, and diminution in value.
Minimum Agreed Benchmarks	means in the period from 1 June to 31 May preceding the Notification Date: (a) the total raw sugar produced from the Buyer's mills existing as at the date of this document was greater than 750,000 tonnes; and (b) the average of the daily ICE 11 spot contract was greater than \$420 per tonne.
Notification Date	means any date on which the Buyer serves a Deferral Notice on the Seller pursuant to clause 3.3(b).
Offer	has the meaning set out in clause 6.1.
Offer Notice	has the meaning set out in clause 6.1.
Option Completion Date	means the date which is two Business Days after the Seller serves an Option Exercise Notice on the Buyer.
Option Exercise Notice	means notice by the Seller specifying the number of Option Shares in respect of which the notice is given.
Option Exercise Period	has the meaning set out in clause 5.2
Option Shares	means any Sale Shares which have been transferred from the Seller to the Buyer at the Extended Tranche Settlement Date.
Personal Property	has the meaning given to that term by the PPSA.
PPS Register	means the register of PPS Security Interests established and maintained under the PPSA.
PPS Security Interest	means a security interest as that term is defined in the PPSA.
PPSA	means the <i>Personal Property Securities Act 2009</i> (Cth).

Term	Definition
Progressive or Periodic Supply	means a Taxable Supply that satisfies the requirements of section 156-5 GST Act.
Purchase Price	means the amount set out in clause 3.
Related Body Corporate	has the meaning given to that term by section 9 Corporations Act.
Relative	has the meaning given to that term in section 9 Corporations Act.
Sale Securities	has the meaning set out in clause 6.1.
Sale Shares	means the shares in the Company set out in Schedule 1.
Security Interest	means, for: <ul style="list-style-type: none"> (a) Personal Property, a PPS Security Interest; and (b) any other property, an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind.
Shares	means the M class shares in the Company.
Specified Price	has the meaning set out in clause 6.1.
Supplier	means, for the purposes of clause 11, the entity making the supply (as defined in the GST Act).
Tax	includes any tax, levy, duty, charge, impost, fee, deduction and withholding however it is described, that is assessed, levied, collected or imposed by law or by a government agency, together with any related interest penalty, fine or other charge, or other amount imposed in respect of any of the above.
Tax Act (1936)	means <i>Income Tax Assessment Act 1936</i> (Cth).
Tax Act (1997)	means <i>Income Tax Assessment Act 1997</i> (Cth).
Tax Liability	means a Liability for Tax and includes all liabilities by virtue of the loss of, or a failure to obtain, an allowance, credit or relief from Tax and any reduction of a Tax advantage which would otherwise have been available.
The Institute of Arbitrators & Mediators Australia	means The Institute of Arbitrators & Mediators Australia ACN 008 520 045, a company limited by guarantee, and any successor organisation.
The Institute of Arbitrators & Mediators Australia Expert Determination Rules	means the latest version of the 'Expert Determination Rules' published by The Institute of Arbitrators & Mediators Australia (whether or not that version was in force at the time of execution of this document).
Third Party	has the meaning set out in clause 6.1.
Tranche	means the transfer of the number of Sale Shares set out in column 3 of the table set out in clause 3.1 from the Seller to the Buyer on a Tranche Settlement Date.
Tranche Purchase Price	means the amount of the Purchase Price payable for the Sale Shares to be transferred in the relevant Tranche, as set out in column 4 of the table set out in clause 3.1.

Term	Definition
Tranche Settlement Date	means the date on which a Tranche is due to settle, as set out in column 2 of the table set out in clause 3.1.
Verification Statement	has the meaning given to that term in the PPSA.
Warranty	means each statement set out in clause 7.1

1.2 Interpretation

In this document:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this document includes the agreement recorded by this document;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
- (i) a reference to 'month' means calendar month;
- (j) this document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself;
- (k) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (l) a reference to '\$' or 'dollar' is to Australian currency;
- (m) a reference to time is to Queensland time;
- (n) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as' or 'for example' (or similar phrases) do not limit what else might be included;

- (o) any reference to a contravention of, or to a breach of, any of the Warranties includes any of the Warranties not being complete, true or correct;
- (p) a reference to applicable law is to any relevant law (including any subordinate or delegated legislation or statutory instrument of any kind) of a jurisdiction in or out of Australia, and also to any relevant judgment, order, policy, guideline, official directive, code of conduct, Authorisation or request (even if it does not have the force of law) of any Government Agency or regulatory body, such as a stock exchange, within or outside Australia; and
- (q) a reference to a matter being to the knowledge of a person means that the matter is to the best of the knowledge and belief of that person (or of a director, executive officer, senior manager or employee if the person is a body corporate) after making reasonable enquiries in the circumstances.

2 Agreement to sell and buy the sale shares

The Seller agrees to sell the Sale Shares, and the Buyer agrees to buy the Sale Shares, from the Seller:

- (a) free from Encumbrances;
- (b) for the Purchase Price;
- (c) on the Tranche Settlement Dates; and
- (d) otherwise on the terms of this document.

3 Purchase price

3.1 Purchase price

Subject to clauses 3.2 and 3.3, the Purchase Price for the Sale Shares is \$13,029,172, being \$0.85 per Sale Share, and the Buyer must pay the Purchase Price to the Seller as follows:

Tranche	Tranche Settlement Date	Sale Shares	Tranche Purchase Price
Tranche 1	Completion Date	2,600,000	\$2,210,000
Tranche 2	31 August 2014	3,182,109	\$2,704,793
Tranche 3	31 August 2015	3,182,109	\$2,704,793
Tranche 4	31 August 2016	3,182,109	\$2,704,793
Tranche 5	31 August 2017	3,182,110	\$2,704,794
TOTAL		15,328,437	\$13,029,172

3.2 Increase in Purchase Price

If any Tranche Settlement Date takes place after 31 August 2017, then the Tranche Purchase Price payable for that Tranche shall be increased to an amount equal to \$0.95 per Sale Share.

3.3 Date and place for completion

Completion of each Tranche must take place at Racecourse Mill, Peak Downs Highway, Racecourse via Mackay, Queensland 4740 on the later of:

- (a) the Tranche Settlement Date; and
- (b) in the event that the Buyer's seasonal performance does not meet the Minimum Agreed Benchmarks, the date, not later than 12 months after the Tranche Settlement Date (**Extended Tranche Settlement Date**), elected by the Buyer as the Tranche Settlement Date in writing to the Seller on or before 31 July in the relevant year (**Deferral Notice**),

or at any other time, date and place the Buyer and Seller agree on in writing, provided that if all of the Sale Shares have not been transferred to the Buyer on or before the eighth anniversary of Completion (**Long Stop Date**) then:

- (c) settlement of the sale of all remaining Sale Shares must take place on that date; and
- (d) rights and obligations under this document, other than:
 - (i) the Continuing Clauses; and
 - (ii) rights that accrue before that date,

terminate on the day after the Long Stop Date.

For purposes of illustration only, the worst case scenario for Completion of all of the Tranches is set out in Schedule 2.

3.4 Seller's obligation on Tranche Settlement Date

At each Actual Tranche Settlement Date, the Seller must give the Buyer absolute ownership of and title to the relevant Sale Shares free from any Encumbrance.

3.5 Delivery of documents

At each Actual Tranche Settlement Date, the Seller must give the Buyer:

- (a) **(transfers)** completed transfers of the relevant Sale Shares to the Buyer or its nominee signed by the Seller, and in registrable form;
- (b) **(other)** any other document reasonably required by the Buyer to obtain title to the Sale Shares and have the Sale Shares registered in the name of the Buyer or its nominee;
- (c) **(releases of all Security Interests)** signed releases of all Security Interests affecting the relevant Sale Shares together with:
 - (i) copies of Verification Statements confirming the removal of all registered PPS Security Interests from the PPS Register on or before Completion; or

- (ii) a written undertaking signed by or on behalf of the secured party confirming that all registered PPS Security Interests will be removed from the PPS Register as soon as reasonably practicable after Completion;

and other documents evidencing the release of those Security Interests to the satisfaction of the Buyer; and

- (d) **(signing authority)** any power of attorney under which any document delivered under this agreement has been signed.

3.6 Buyer's obligations at completion

At each Actual Tranche Settlement Date, the Buyer must:

- (a) pay the Tranche Purchase Price to a bank account nominated by the Seller in immediately available funds; and
- (b) sign any documents that need signing by the Buyer.

3.7 Failure to register transfer

- (a) In the event that the board of the Company refuses to register a transfer of Sale Shares made under this document within 10 Business Days of the relevant Actual Tranche Settlement Date, then each party must cooperate with the other party and use its reasonable endeavours to ensure that the board of the Company registers the transfer as soon as reasonably possible.
- (b) In the event that the board of the Company has not registered a transfer of any Sale Shares made under this document within 60 Business Days of the relevant Tranche Settlement Date, then:
 - (i) each party must return to the other all documents delivered to it under clause 3; and
 - (ii) the Seller must repay to the Buyer the Tranche Purchase Price paid on the relevant Tranche Settlement Date; and
 - (iii) each party must do everything reasonably required by the other party to reverse any action taken under clause 3.

3.8 Interdependence

The obligations of the Buyer and the Seller under clause 3 are interdependent and:

- (a) all actions required to be performed on each Tranche Settlement Date must be taken to have occurred simultaneously; and
- (b) settlement of each Tranche shall be deemed to have occurred when all of the obligations of the Buyer and the Seller under clause 3 are complied with or waived in writing by the Buyer and the Seller.

3.9 Failure to complete

If the Buyer or the Seller fails to fully comply with its obligations under clause 3 and the parties do not achieve Completion then each party must:

- (a) return to the other, all documents delivered to it under clause 3;
- (b) repay to the other, all payments received by it under clause 3; and
- (c) do everything reasonably required by the other party to reverse any action taken under clause 3 and to put the other party back in the position it would have been in had the transfer not occurred,

without prejudice to any other rights any party may have because of that failure.

4 Rights attaching to Sale Shares

4.1 Prior to Tranche Settlement Date

The Buyer and the Seller agree and acknowledge that until Completion of a Tranche, the Seller retains all of its rights as the owner of the Sale Shares relating to such Tranche, including:

- (a) voting rights;
- (b) rights to dividends including, without limitation, all dividends declared in respect of the financial year ended 30 June prior to the Completion of the Tranche, irrespective of when such dividends are paid; and
- (c) the option to dispose of the relevant Sale Shares to a third party (subject to complying with its obligations set out in clause 6).

4.2 On and from Tranche Settlement Date

Subject to the retransfer of any Sale Shares under clause 3.7(b), on and from each Actual Tranche Settlement Date the Buyer and the Seller agree and acknowledge that:

- (a) subject to clause 4.1(b), the Buyer will be entitled to receive all dividends relating to the relevant Sale Shares;
- (b) the Buyer will be entitled to exercise all voting rights for the relevant Sale Shares; and
- (c) pending registration by the Company of the Buyer as the holder of the relevant Sale Shares, the Seller in respect of the relevant Sale Shares only:
 - (i) is deemed to have irrevocably appointed the Chairman of the Buyer as its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings of the Company, exercise the votes attached to the relevant Sale Shares registered in their name and sign any shareholders' resolutions, whether in person, by proxy or by corporate representative;
 - (ii) must not vote at any shareholders' meetings of the Company, or sign any resolutions, whether in person, by proxy or by corporate representative, other than in accordance with this clause; and
 - (iii) must take all other actions in the capacity of the registered holder of relevant Sale Shares as the Buyer directs,

provided that, before exercising its voting rights over the relevant Sale Shares in accordance with clause 4.2(b) or 4.2(c), the Buyer agrees that, until such time as the final Tranche of Sale Shares is transferred to it or its obligation to purchase Sale Shares otherwise ends in accordance with

this document, it will, at least one week before any shareholder meeting is to be held, consult with the Seller to understand the Seller's views on the relevant matters the subject of the meeting although the Buyer shall be under no obligation to vote in accordance with the Seller's views.

5 Call option

5.1 Grant of Call Option

Subject to Completion of a Tranche not having taken place by an Extended Tranche Settlement Date, the Buyer hereby grants to the Seller an option to purchase the Option Shares free from all Encumbrances on the terms and conditions of this clause 5.

5.2 Option Exercise Period

The Seller may exercise the Call Option at any time commencing on the Extended Tranche Settlement Date and expiring at 5.00pm on the date which is 10 Business Days after the relevant Extended Tranche Settlement Date, (**Option Exercise Period**) in accordance with clause 5.3 and as specified otherwise in this document.

5.3 Exercise

The Call Option may be exercised by the Seller at any time during the Option Exercise Period by delivering to the Buyer an Option Exercise Notice duly executed by the Seller.

5.4 Binding Agreement

If the Call Option is validly exercised by the Seller, then:

- (a) a binding agreement for the sale of the Option Shares by the Buyer and the purchase of the Option Shares by the Seller will be immediately created without any further action required by the Buyer or the Seller;
- (b) settlement of the sale and purchase of the Option Shares will be in accordance with clauses 5.5 to 5.7; and
- (c) the Buyer and the Seller will each be bound by their respective rights and obligations as set out in this clause 5.

5.5 Option Completion Date

If the Call Option is exercised pursuant to clause 5.3, completion of the sale and purchase of the Option Shares will take place on the Option Completion Date at 11:00 am at Racecourse Mill, Peak Downs Highway, Racecourse via Mackay, Queensland 4740, or at any other time and place agreed by the Buyer and the Seller in writing prior to the Option Completion Date.

5.6 The Buyer's obligations

On the Option Completion Date, the Buyer will confer on the Seller beneficial ownership of the Option Shares free from all Encumbrances, and must on the Option Completion Date deliver to the Seller a duly executed share transfer of the Option Shares in registrable form.

5.7 The Seller's obligations

On the Option Completion Date, subject to the Buyer complying with clause 5.6, the Seller will:

- (a) make payment of the Exercise Price in favour of the Buyer; and
- (b) accept the instruments of transfer of the Option Shares from the Buyer.

The provisions of clause 3.7 apply to any transfer in accordance with this clause as if references to the Buyer were references to the Seller and vice versa and as if references to the Tranche Settlement Date were references to the Option Completion Date.

6 Buyer's right of pre-emption

6.1 Offer by Third Party

If the Seller receives an offer from a third party to buy any Sale Shares (**Offer**), which have not been transferred to the Buyer pursuant to this document at the date of the Offer, for a price per Sale Share which it would like to accept, including, without limitation, a price in excess of the price per Sale Share the Buyer has agreed to pay pursuant to this document, it must immediately give to the Buyer notice (**Offer Notice**) setting out:

- (a) that the Seller wants to Transfer a specified number (which may be all or some only of its total holding) of Sale Shares sought by the third party (**Sale Securities**);
- (b) the price offered per Sale Security (**Specified Price**);
- (c) the terms of the Offer; and
- (d) the identity of the third party making the Offer (**Third Party**),

and attaching a copy of the offer (if any) from the proposed transferee.

6.2 Offer

The Offer Notice is an offer by the Seller to the Buyer to sell on the terms set out in the Offer Notice, conditional on the Seller receiving an acceptance from the Buyer for all of the Sale Securities.

6.3 Acceptance

Within 30 Business Days of receiving the Offer Notice (**Acceptance Period**), the Buyer may give an unconditional notice to the Seller (**Acceptance Notice**) stating whether it accepts or rejects the offer in the Offer Notice in full.

6.4 Buyer's failure to respond

If the Buyer fails to give the Seller notice under clause 6.3 within the Acceptance Period to participate in that sale of Sale Securities, it is taken to have rejected the offer.

6.5 Sale to another person

- (a) If the Buyer either gives the Seller notice stating that it rejects the offer or fails to respond to the Offer Notice within the Acceptance Period, the Seller may sell those Sale Securities to the Third Party (but not any other person):
 - (i) at any time within 60 Business Days after giving the Offer Notice;
 - (ii) at a price per Sale Security not less than the Specified Price; and

- (iii) on terms no more favourable to the buyer than those offered to the Buyer.
- (b) In the event that the Seller sells any Sale Shares to a third party pursuant to this clause 6, the number of Sale Shares sold will be deducted from the next Tranche that would have otherwise been acquired by the Buyer pursuant to this document and the Tranche Purchase Price for that Tranche shall be reduced accordingly.

7 Warranties

7.1 Seller Warranties

The Seller warrants to the Buyer that it has complete and unrestricted power and authority to transfer full legal and beneficial ownership of the Sale Shares to Mackay as contemplated by this document, subject only to the requirements of the constitution of the Company that require board approval or other formalities before a transfer can take effect.

8 Limitation on liability

8.1 Cap on Claims against the Seller for breach of Warranty

The maximum liability of the Seller for all Claims made in connection with this document, including for breach of Warranty is limited to the actual Purchase Price paid by the Buyer to the Seller plus the expenses of consultants, and legal expenses on a full indemnity basis, incurred by the Buyer relating to any Claims.

8.2 Time limits for bringing Claims

- (a) The Buyer cannot make a Claim for breach of a Warranty unless the Buyer gives to the Seller notice of the Claim describing the proposed Claim sufficiently to put the Seller fairly on notice of the matter in question, and (to the extent the Buyer is reasonably able) of the likely amount of the Claim before the first anniversary of the relevant Tranche Settlement Date for a Claim alleging a breach of a Warranty.
- (b) The Seller has no liability for breach of a Warranty unless a Claim has been settled or legal proceedings in a court of competent jurisdiction for the Claim have been commenced by the Buyer against the Seller within six months of the Claim being notified by the Buyer under clause 8.

8.3 Cap on Claims against the Buyer for breach of obligations

The maximum liability of the Buyer for all claims made in connection with this document, including for breach of warranty, is limited to the Purchase Price plus the legal and any other costs reasonably incurred by the Seller in making a successful claim against the Buyer less the amount obtained by the Seller upon any sale of the Sale Shares to a third party.

8.4 Mitigation of Loss

Both the Buyer and the Seller must use all reasonable endeavours to mitigate any Loss that may give rise to a Claim including by seeking recovery or compensation by other means if it is available.

8.5 Exclusion of indirect and consequential loss or damage

Neither party is liable to the other for any indirect and consequential loss or damage (including for loss of profit (whether direct, indirect, anticipated or otherwise), loss of expected savings, opportunity costs, loss of business (including loss or reduction of goodwill) and damage to reputation regardless of whether any or all of these things are considered to be indirect or consequential losses or damage) in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to this document.

9 Capacity

9.1 Title and capacity

Each party warrants that:

- (a) it is validly existing under the laws of its place of incorporation or registration;
- (b) it has the power to enter into and perform its obligations under this document;
- (c) it has taken all corporate action and holds all Authorisation necessary or desirable to enable its entry into and performance of this document, and it is complying with any conditions attached to the Authorisation;
- (d) its obligations under this document are enforceable against it under the terms of the document; and
- (e) the execution, delivery and performance by it of this document (and any other document required to be entered into by it relating to this document) does not and will not:
 - (i) result in a breach of, or constitute a default under, any agreement or arrangement to which it is party or by which it is bound; or
 - (ii) result in a breach of any law or order, judgment or decree of any court or Government Agency or regulatory body by which it is bound.

9.2 Legal advice

Each party warrants it has read and understood this document and obtained independent legal advice about its terms.

10 Announcements and confidentiality

10.1 Agreement to remain confidential

Subject to clauses 9.2 and 10.2, the parties must keep confidential the existence and terms of this document and their negotiations.

10.2 No announcement to be made

No public announcement or communication relating to the existence and terms of this document or the negotiations of the parties may be made or authorised by a party unless:

- (a) each party gives its written approval;

- (b) the disclosure is to the disclosing party's employees, consultants, professional advisers, bankers, financial advisers and financiers or to a person whose consent is required under this document, or for a transaction contemplated by it; or
- (c) the disclosure is made to comply with any applicable law or the requirements of any regulatory body (including any relevant stock exchange).

11 GST

11.1 Definitions

Any terms capitalised in clause 11 and not already defined in clause 1.1 have the same meaning given to those terms in the GST Act.

11.2 GST exclusive

Except under clause 11, the consideration for a Supply made under or in connection with this document does not include GST.

11.3 Taxable Supply

If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time any part of the consideration for the Supply is payable:

- (a) the Recipient must pay the Supplier an amount equal to the total GST for the Supply, in addition to and in the same manner as the consideration otherwise payable under this document for that Supply; and
- (b) the Supplier must give the Recipient a Tax Invoice for the Supply.

11.4 Later GST change

For clarity, the GST payable under clause 11.3 is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the Supplier is liable, however caused.

11.5 Reimbursement or indemnity

If either party has the right under this document to be reimbursed or indemnified by another party for a cost incurred in connection with this document, that reimbursement or indemnity excludes any GST component of that cost for which an Input Tax Credit may be claimed by the party being reimbursed or indemnified, or by its Representative Member, Joint Venture Operator or other similar person entitled to the Input Tax Credit (if any).

11.6 Warranty that Tax Invoice is issued regarding a Taxable Supply

Where a Tax Invoice is given by the Supplier, the Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.

11.7 Progressive or Periodic Supplies

Where a Supply made under or in connection with this document is a Progressive or Periodic Supply, clause 11.3 applies to each component of the Progressive or Periodic Supply as if it were a separate Supply.

12 Dispute resolution by expert determination

12.1 Condition precedent to start of proceedings

If any dispute between the parties arises out of or in connection with this document, the party claiming that a dispute has arisen must notify each other party to the dispute, specifying the nature of the claim (**Dispute Notice**).

12.2 Resolution of dispute by negotiation

During the five Business Days after the date the Dispute Notice is given each party must:

- (a) prepare, and exchange with the other parties, a brief statement setting out its own position on the dispute and its reasons for adopting that position; and
- (b) give to the other parties any information they may reasonably require to consider the issues relevant to the dispute.
- (c) Within five Business Days after the date the statements are due to be exchanged under clause 12.2, the chief executive officer of the Buyer and the Seller must meet and use their best endeavours to resolve the dispute, each having full authority to do so.
- (d) In the absence of agreement between the parties as to the time and venue for the meeting, the meeting must take place at the offices of Queensland Law Society Inc. at 8.30am on the last Business Day of the time period referred to in clause 12.2(c).

12.3 Resolution of issues by Expert

If the dispute is not resolved under clause 12 it must be submitted to an expert in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Expert Determination Rules.

13 General

13.1 Amendments

This document may only be amended by written agreement between all parties.

13.2 Assignment

A party may only assign this document or a right under this document with the written consent of the other party.

13.3 Counterparts

- (a) This document may be signed in any number of counterparts. All counterparts together make one instrument.
- (b) This document may be formed by exchange of counterparts in accordance with the following terms:
 - (i) a counterpart may be transmitted by email or facsimile transmission (and the time that a counterpart is deemed tendered is the time of transmission as shown on the senders fax or computer);

- (ii) each person that forms a named party to this document may sign a separate counterpart;
 - (iii) the Seller may tender by way of exchange by fax or email to the Buyer a counterpart or counterparts under cover of a written notice by the Seller, which contains the words 'the Seller's counterpart of the contract is attached by way of exchange'; and
 - (iv) the Buyer may tender by way of exchange by fax or email to the Seller a counterpart or counterparts under cover of a written notice by the Buyer, which contains the words 'the Buyer's counterpart of the contract is attached by way of exchange'.
- (c) After the exchange of counterparts under clause 13.3(b), all parties must sign as originals (but for convenience only) two copies of this document. The exchange under clause 13.3(b) is intended to make this document immediately binding on completion of the exchange.

13.4 No merger

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

13.5 Entire agreement

- (a) This document supersedes all previous agreements about its subject matter and any agreements collateral to those agreements. This document embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, has no effect except to the extent expressly set out or incorporated by reference in this document.
- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

13.6 Further assurances

Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

13.7 No waiver

- (a) The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

13.8 Governing law and jurisdiction

- (a) Queensland law governs this document.

- (b) Each party irrevocably submits to the exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

13.9 Severability

A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

13.10 Notice

- (a) A notice, consent or communication under this document is only effective if it is:
- (i) in writing, signed by or on behalf of the person giving it;
 - (ii) addressed to the person to whom it is to be given; and
 - (iii) given as follows:
 - (A) delivered by hand to that person's address;
 - (B) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas; or
 - (C) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission was made without error and showing the relevant number of pages and the correct destination fax number or name of recipient.
- (b) A notice, consent or communication given under clause 13.10(a) is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

If a notice is	It is given and received on
Delivered by hand or sent by fax	(a) that day, if delivered by 5.00pm on a Business Day; or (b) the next Business Day, in any other case.
Sent by post	(a) three Business Days after posting, if sent within Australia; or (b) seven Business Days after posting, if sent to or from a place outside Australia.

- (c) A person's address and fax number are those set out below, or as the person notifies the sender:

Seller

Name	Bundaberg Sugar Ltd
Attention	Chief Executive Officer
Address	4 Gavin Street, Bundaberg QLD 4670
Fax	07 4150 8522

Buyer

Name	Mackay Sugar Limited
Attention	Chief Executive Officer
Address	Racecourse Mill, Peak Downs Highway, Racecourse via Mackay, Queensland 4740
Fax	07 4953 8340

13.11 Costs

- (a) Each party bears its own costs in relation to the preparation and signing of this document.
- (b) Unless otherwise provided in this document, the Buyer pays all stamp duty and other taxes of a similar nature (including fines, penalties and interest) on this document and on any instrument or other document signed to give effect to this document.

13.12 Joint and several liability

If a party to this document consists of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several; and
- (b) a right of those persons is held by each of them severally.

13.13 Method of payment

All payments required to be made under this document must be made:

- (a) in cash or by bank cheque; or
- (b) by crediting the account of the recipient (specified for that purpose) with cleared funds.

13.14 Non-revocation of power of attorney

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

13.15 Time of the essence

Time is of the essence of this agreement.

13.16 Delivery

Each party intends to be bound by this document when that party executes this document.

Schedule 1

Details of the Company and the Sale Shares (clause 1.1)

Details of the Sale Shares

Registered holder	Class of shares	Number of shares
Bundaberg Sugar Ltd ACN 077 102 526	M	15,328,437

Company details

Item	Details
Name	Sugar Terminals Limited
ACN	084 059 061
Place of registration	QLD
Date of registration	25 August 1998
Current registered office	Level 3, 348 Edward Street, Brisbane QLD, 4000
Principal place of business	Level 3, 348 Edward Street, Brisbane QLD, 4000
Issued share capital	229,348,203 class G shares; 130,651,797 class M shares
Current directors	CONSTANTINE ARTHUR CHRISTOFIDES, STUART CARLTON GREGORY, ANDREW SHANE CAPPELLO, SHAYNE WILLIAM RUTHERFORD, DONALD ANDREW WATSON
Current company secretary	RICHARD BLAKE FARQUHAR

Schedule 2

Details of the worst case scenario for illustration purposes only (clause 3.3)

Worst case Scenario

Year 0 - Tranche 1 paid for at 85c.

Year 1 - Buyer does not achieve raw sugar volume and price Minimum Agreed Benchmark, and elects to defer all remaining Tranches.

Year 2 - Buyer to pay for Tranche 2 at 85c (irrespective of price/crop levels).

Year 3 - Buyer does not achieve raw sugar volume and price Minimum Agreed Benchmark, and elects to defer all remaining Tranches.

Year 4 - Buyer to pay for Tranche 3 at 85c (irrespective of price/crop levels).

Year 5 - Buyer does not achieve raw sugar volume and price Minimum Agreed Benchmark, and elects to defer all remaining Tranches.


Year 6 - Buyer to pay for Tranche 4 at 95c (irrespective of price/crop levels).

Year 7 - Buyer does not achieve raw sugar volume and price Minimum Agreed Benchmark, and elects to defer the remaining Tranche.

Year 8 - Buyer to pay for Tranche 5 at 95c (irrespective of price/crop levels).


Execution

Executed by Bundaberg Sugar Ltd ACN 077 102
526 In accordance with its Constitution and Section
127 of the Corporations Act 2001

^  _____
Director

RAYMOND JOHN HATT

^ _____
Full name of Director

^  (24/9/2013) _____
Director/Secretary

PETER ANTHONY HAWE

^ _____
Full name of Director/Secretary

Executed by
Mackay Sugar Limited ACN 057 463 671 in
accordance with its Constitution and Section 127 of
the Corporations Act 2001:

^ _____
Director

^ _____
Director/Secretary

^ _____
Full name of Director

^ _____
Full name of Director/Secretary

Execution

Executed by Bundaberg Sugar Ltd ACN 077 102
526 in accordance with its Constitution and Section
127 of the Corporations Act 2001

^ _____
Director

^ _____
Director/Secretary

^ _____
Full name of Director

^ _____
Full name of Director/Secretary

Executed by
Mackay Sugar Limited ACN 057 463 671 in
accordance with its Constitution and Section 127 of
the Corporations Act 2001:

^ ASCARD
Director

^ Donna Margaret Ramsussen
Director/Secretary

^ ANDREW SHANG CARDENLO
Full name of Director

^ DONNA MARGARET RAMSUSSEN
Full name of Director/Secretary