

NFU SUGAR

TERMS OF REFERENCE

BACKGROUND

- (A) NFU Sugar is a body of The National Farmers' Union (**NFU**) established pursuant to paragraph 18.1 of the NFU Constitution.
- (B) The NFU has been recognised by the Department of the Environment Food and Rural Affairs (DEFRA) as substantially representative of the growers of sugar beet in the United Kingdom, for the purposes of EU Regulation no. 1308/2013. NFU Sugar has been established by the NFU in order to carry out the Objects as defined in paragraph 1 below.
- (C) This document sets out the terms of reference of NFU Sugar which were approved by Council of NFU on 18th June 2018.
- (D) These Terms of Reference shall be the agreement between and be binding on every Grower and other person who accepts a role within NFU Sugar.
- (E) The body may be discontinued or re-established at any time by the NFU, but the NFU Sugar Assets must continue to be used for the Objects set out below.

1. OBJECTS

The Objects of NFU Sugar are:

- (a) to represent and promote the interests of Growers;
- (b) to negotiate on behalf of all Growers the IPA with the Processor and to ensure Processor adherence to the IPA;
- (c) to control and supervise, subject to the provisions relating to deductions in the IPA, the deduction of a levy from payments made to Growers, managed by the Processor, at such a rate per adjusted tonne as may be specified by NFU Sugar to the Processor from time to time;
- (d) to provide a full range of support services, including, but not limited to, political, professional, technical and commercial services to Growers and to others with agricultural, horticultural and countryside interests where they are consistent with the interests of Growers;
- (e) to carry on or participate in any business or other activity which, in the opinion of the Board, may be carried on in connection with any of the other Objects; and
- (f) to provide such other services and benefits to Growers and others with an interest in agriculture, horticulture, rural areas and businesses, the countryside and/or the environment as the Board may from time to time determine and the Council may approve.

Each of the Objects is to be separately interpreted in the broadest possible sense. None of the Objects is to be interpreted in a way which would make it subordinate or incidental to another Object.

2. POWERS

In furtherance of the Objects, the Board may exercise the following powers delegated to it by NFU, in relation to its activities and the NFU Sugar Assets:

- (a) to buy, take on lease or exchange any property necessary for the achievement of the Objects and to maintain and equip it for use;

- (b) to invest and deal with the moneys of NFU Sugar not immediately required, in such manner as may from time to time be determined, and to hold or otherwise deal with any investments made including entrusting the finance department of the NFU to handle, invest and account to the Board for such moneys;
- (c) to change the level of the levy where such a change would, in the opinion of the Board, be in the best interests of Growers;
- (d) to enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Objects or any of them, and to obtain from any such government or authority any rights, privileges or concessions which the Board may consider it desirable to obtain and to carry out, exercise, and comply with any such arrangements, rights, privileges and concessions;
- (e) to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been employed by, or who are serving or have served NFU Sugar; to make payments towards insurance; and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any such persons;
- (f) to apply for, promote, and seek to obtain any Act of Parliament, order, or licence of any government department or other authority for enabling NFU Sugar to carry any of its Objects into effect, or for any other purpose which is intended directly or indirectly to promote NFU Sugar's interests or the interests of Growers and to oppose any proceedings or applications which may seem calculated directly or indirectly to challenge or adversely affect those interests;
- (g) to co-operate with any other organisation, association or corporate or unincorporated body whose objects similar to those of NFU Sugar and to exchange information and advice with them;
- (h) to guarantee or enter into any indemnity or other arrangement relating to the discharge of another person's obligations, with or without receiving any commercial benefit or consideration, where such guarantee, indemnity or other arrangement is in the opinion of the Board in the interests or for the benefit of Growers;
- (i) to establish or support any charitable trusts, incorporated or unincorporated bodies, associations or institutions formed for all or any of the Objects;
- (j) to seek specialist or professional advice and if necessary to appoint and constitute such advisory groups as the Board may think fit;
- (k) to do all or any of the things or matters aforesaid either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others; and
- (l) to do all such other things as may be deemed incidental or conducive to the attainment of NFU Sugar's Objects or any of them.

3. GENERAL ORGANISATION

The Board

- 3.1 The Board shall have oversight of NFU Sugar and may exercise all the powers delegated to NFU Sugar pursuant to paragraph 2.
- 3.2 The Board when complete shall comprise:-
 - (a) nine Elected Board Members;

- (b) up to three Appointed Board Members; and
 - (c) up to three Co-opted Board Members.
- 3.3 All members of the Board, whether elected, appointed or co-opted shall have the same rights, save that a Co-opted Board Member:-
- (a) may not vote on the co-option of a Co-opted Board Member;
 - (b) cannot stand for election as an Office Holder; and
 - (c) cannot vote in an election for an Office Holder.

Elected Board Members

- 3.4 The following provisions shall apply in relation to the Elected Board Members:
- (a) Elections will take place annually, (subject to the transitional provisions set out in paragraph 3.14) with three positions usually contested in any one year, unless an Elected Board Member has terminated his office early for some reason in which case the vacant position shall also be contested.
 - (b) Nominations for Elected Board Members will be sought, in accordance with the Election Timetable in such manner as the Board may determine and the Board will ensure that all Growers are made aware of the timetable for nomination, the process for nominating any candidates, the information to be provided, and the timing of the election. The Board will use its best efforts to ensure that candidates are nominated for every Factory Area and/or the North East Region in respect of which a vacancy will arise.
 - (c) Elected Board Members shall be elected for a three year term. The term of office of an Elected Board Member will commence at the start of the Board Meeting held in March and come to an end three years later immediately prior to the March Board Meeting, unless the provision of paragraph 3.13 or 3.14 apply.
 - (d) Candidates standing for election as Elected Board Members must be nominated by at least five Growers and be either:-
 - (i) a Grower, but need not be a member of the NFU; or
 - (ii) a professional farm manager managing a sugar beet contract.
 - (e) Board members may seek re-election as an Elected Board Member and there shall be no maximum number of terms of office which an Elected Board Member may serve.
 - (f) An election only needs to be held if there are more candidates nominated than there are vacant posts.

Voting for Elected Board Members

- 3.5 The election voting procedure for candidates will be by postal ballot or such form of electronic voting system as the Board shall approve (or combination of both provided that each Grower may only exercise their votes once) open to all Growers and under the following conditions:
- (a) Following the opening of the voting process, every Grower will receive relevant information on the forthcoming elections, the candidates and instructions on how to vote.
 - (b) Each Grower will be entitled to cast one vote for every Contract he holds for each vacancy that is being elected.

- (c) Growers who have entered into a group Contract will have one vote which must be exercised by them collectively. For the purposes of administering the election, the Board will be entitled to take account of the vote exercised by the first-named holder of the group Contract.

Election Results

3.6 The results of each election shall be determined as follows:-

- (a) The candidate from any unrepresented Factory Area and/or the North East Region with the highest number of votes will be automatically elected. If there is more than one candidate from an unrepresented Factory Area or the North East Region, the Candidate with the highest number of votes will be automatically elected.
- (b) Once each Factory Area and the North East Region has an elected representative in place, the remaining posts will be filled by those candidates not automatically elected pursuant to (a) above with the highest number of votes, regardless of their respective Factory Areas or region. If no candidate is standing for election to a Factory Area or region in which there is a vacant post, then those candidates with the highest number of votes shall be elected and the Board will seek to redress the lack of representation in a particular area through some other means.
- (c) Where the election includes a position(s) for a part term following an Elected Board Member standing down before the end of their elected term, then the candidate appointed to the Board with the least number of votes will be elected to this position for the remainder of the term.
- (d) In the event that there is an equality of votes for a post, the candidates having equal number of votes shall be invited to agree the outcome between themselves, and failing such agreement, the matter shall be decided by lot.
- (e) The results of the election shall be overseen by a NFU Director and shall be announced to the Board and communicated to Growers as soon as possible.
- (f) In the event that there is any question as to the holding of an election for Elected Board Members (whether as to eligibility to stand, votes cast or otherwise), a NFU Director may determine any matter, and his/her determination shall be final.

Appointed Board Members

3.7 The following provisions shall apply in relation to the Appointed Board Members:

- (a) Once the results of the election have been announced, the Board will consider whether it wishes to appoint any Appointed Board Members to fill any skills or experience gap on the Board.
- (b) Any person is eligible to apply for appointment to the Board.
- (c) The Board shall agree a fair process for recruiting and appointing the Appointed Board Members. The Board will appoint an Appointments Panel which shall comprise a nominated board member, a senior NFU staff member, and two others from the sector as determined by the Board.
- (d) Appointments will be made by the Appointments Panel following consideration of all suitable applicants. The decision of the Appointments Panel will be notified immediately to the Board.
- (e) Appointed Board Members shall be appointed for a term of one, two or three years, depending on need. The term of office of an Appointed Board Member will commence at the start of the Board Meeting held in March and will come to an end immediately prior to

the Board Meeting held in the March at the end of the agreed appointment period (one, two or three years as noted above), unless the provisions of paragraph 3.13 apply.

Co-opted Board Members

- 3.8 The Board may co-opt up to three Co-opted Board Members as follows:
- (a) In January each year the Board will consider those areas of skills, experience and expertise or regional representation from which the Board may benefit.
 - (b) The Board will consider suitable candidates to fill any co-opted role.
 - (c) A "show of hands" vote will be cast by the Elected Board Members. If there are more candidates than positions available, the candidates receiving the most votes will be successful.
 - (d) Co-opted Board Members will usually be appointed to serve a term of one year but may be re-appointed up to a maximum of six consecutive years.
 - (e) A Co-opted Board Member may stand for election to the Board as an Elected Board Member or apply to be appointed as an Appointed Board Member.
 - (f) At any time during the year, where further expertise or resource need is identified by the board, additional individual(s) may be co-opted to the Board for such period (being less than a year) as the Board may determine, provided that the maximum number of co-options will not be exceeded.
 - (g) Co-opted Board Members will be required to comply with the same requirements as full board members for the duration of their appointment as outlined in provision 3.12.
 - (h) Co-option will not be considered for any individual who has stood for election to be an Elected Board Member in the immediately preceding election but is not successful.

Board Proceedings

- 3.9 The proceedings of the Board shall not be invalidated by any vacancy among its number or by any failure to appoint or any defect in the appointment or qualification of a member, but any such defect shall be rectified as reasonably quickly as practicable.
- 3.10 Any person elected, appointed or co-opted as a member of the Board may take up office only after signing a declaration of acceptance and willingness to act according to and agree to be bound by the Terms of Reference.
- 3.11 No member of the Board shall acquire any interest in property belonging to NFU Sugar or receive remuneration or be interested (otherwise than as a member of the Board) in any contract entered into by the Board.
- 3.12 All members of the Board will be expected to:
- (a) comply at all times with the Terms of Reference;
 - (b) attend all Board meetings, absences will be subject to the discretion of the Chairman;
 - (c) attend other meetings as appropriate; depending on the portfolio allocated to them by the board (e.g. beet reception, seeds working group);
 - (d) attend annual Cereals and BBRO events as representative of the NFU Sugar Board where possible;

- (e) to attend the NFU regional forum meetings or factory forums in their Factory Area where possible;
- (f) be on email for purposes of communication and respond promptly on NFU Sugar business; and
- (g) provide regular reports to the Board on their areas of responsibility, including where relevant a written report in advance of the bi-monthly board meetings;
- (h) discharge their responsibilities and obligations with all skill and care as is reasonable in the circumstances;
- (i) to disclose any conflicts of interest or conflicts of loyalty to the Board;
- (j) behave with utmost discretion and have regard to his duty of confidentiality;
- (k) contribute to the strategic aims and Objects of NFU Sugar.

Removal from office

3.13 A member of the Board shall cease to hold office if he:

- (a) becomes incapable by reason of mental disorder, illness or injury of managing and administering his own affairs;
- (b) is declared bankrupt or is the director of a company or LLP which becomes insolvent;
- (c) is absent without the permission of the Board from all its meetings held within a period of six months and the Board resolves that his office be vacated;
- (d) in the case of an Elected Board Member: (i) where he was a Grower, he ceases to be a Grower; or (ii) where he was a professional farm manager managing a sugar beet contract, he ceases to be a professional farm manager managing a sugar beet contract, and in either case, the Board resolves that he should be removed;
- (e) notifies the Board of a wish to resign; or
- (f) acts in a personal or professional capacity in such manner as is likely to bring NFU Sugar into disrepute or has acted in any way which causes significant damage to NFU Sugar, then he may be removed by a vote of the members of the Elected Board Members and Appointed Board Members at a Board meeting of which the member sought to be removed has been notified and given the opportunity of attending and speaking, and where the members have voted by a three-quarter majority to remove the member.

Transitional Provisions

3.14 The following provisions shall apply in relation to Elected Board Members at the election to be held for posts which will take effect in 2019, 2020 and 2021:

- (a) in March 2019, the term of office of six Elected Board Members will come to an end, and an election will be held in late 2018 for six Elected Board Members, three of whom shall hold office for two years, and three of whom shall hold office for three years. The persons receiving the largest number of votes shall hold office for three years and the candidates receiving the next three largest number of votes shall hold office for two years;
- (b) in March 2020, the term of office of two Elected Board Members will come to an end, and an election will be held in late 2019 for three Elected Board Members, who will hold office for three years. (In order to bring the number of Elected Board Members to nine as provided for in paragraph 3.2(a) above, three new Elected Board Members will be elected);

- (c) in March 2021, the term of office of three Elected Board Members will come to an end, and an election will be held in late 2020 for three Elected Board Members.

4. MEETINGS OF THE BOARD

- 4.1 The Board shall hold at least six meetings each year. A meeting may be called at any time by the Chairman or by any five members of the Board upon not less than three clear days' notice being given to all the other members of the Board but, if the matters to be discussed include the suspension or removal of a Board Member not less than 21 clear days' notice must be given.
- 4.2 No business shall be transacted at any meeting of the Board unless a quorum of at least one half of the number of the members of the Board (including co-opted members) are present.
- 4.3 The Chairman or in his absence the Vice Chairman shall preside as chairman of meetings of the Board. If neither such person is present within fifteen minutes after the time appointed for holding the meeting, the Board Members present shall elect one of their number to be chairman.
- 4.4 A resolution put to the vote of a meeting shall be decided on a show of hands unless before the show of hands a secret ballot is duly demanded. A secret ballot may be demanded in relation to any resolution by at least three Board Members having the right to vote at the meeting.
- 4.5 In the case of an equality of votes the Chairman shall be entitled to a casting vote in addition to his vote as a member of the Board.
- 4.6 The Board shall procure to be kept minutes of the proceedings at meetings of the Board and any standing committee or sub-committee appointed pursuant to paragraph 4.7 below.
- 4.7 The Board may appoint one or more standing committees, sub committees or working parties consisting of members of the Board or other persons appointed because of their knowledge and skill for the purpose of making any inquiry or supervising or performing any function or duty which in the opinion of the Board would be more conveniently undertaken or carried out by such committee. The Board shall set out clear terms of reference for any such standing committee, sub committee or working party which do not in any way conflict with the Terms of Reference. All acts and proceedings of any such committee shall be fully and promptly reported to the Board.
- 4.8 The Board may from time to time make and amend rules for the conduct of its business and the business of its standing and sub-committees, the summoning and conduct of its meetings and the custody of documents provided however that no rule may be made or amended which is inconsistent with the Terms of Reference, the NFU Constitution or Rules of NFU.
- 4.9 The Board may hold meetings by telephone or video conference or such other suitable means as they think fit provided all participants may communicate with each other simultaneously.
- 4.10 The members of the Board may take decisions without holding a Board Meeting by indicating to each other by other means, including without limitation by electronic form, that they share a common view on a matter. Such a decision may only be passed if three-quarters of the Members of the Board for the time being indicate their consent.
- 4.11 If a member of the Board is interested in any contract or arrangement with NFU Sugar (other than a contract or arrangement generally application to Growers) either directly or indirectly, he must notify the Chairman. He may be counted in the quorum but may not vote in relation to any such contract or arrangement.
- 4.12 Members of the Board shall not be entitled to any salary but shall be recompensed for the expenses they incur in attending meetings of the Board and of any standing or sub-committee and in carrying out their duties as members, subject to producing receipts in respect thereof. In addition, the Board may agree to pay members an annual honorarium reflecting their time and commitment to NFU Sugar. The annual honorarium for the Chairman and for members of the Board (who do not hold a specific role) shall be fixed at the same level as is approved by the NFU Audit Committee for other commodity boards within NFU. In respect of the honorarium to be

applied for other roles held by the members of the Board, the Board shall agree the appropriate level of honorarium save that no member of the Board may vote on any decision as to the level of honorarium which will apply to any role which he holds on the Board.

5. OFFICE HOLDERS OF NFU SUGAR

5.1 The Office Holders of NFU Sugar shall be the Chairman, Vice Chairman and Beet Reception Chairman. The Chairman and Vice-Chairman must be NFU members (in order to comply with the terms of the NFU Constitution).

5.2 The procedure for electing the Office Holders shall be as follows:

- (a) Election shall take place annually at the first Board meeting held after 1 March each year.
- (b) Every Elected Board Member and Appointed Board Member will be eligible for nomination, but no Co-opted Board Member is eligible to stand.
- (c) Nominations for the position of Office Holders must be received no later than 7 days before the board meeting at which the Office Holders are to be elected.
- (d) A vote will take place by way of secret ballot at the Board meeting.
- (e) Co-opted Board Members may not vote on the election of any Office Holders.
- (f) The term of office for any Office Holder shall be one year (but a member filling any position shall be entitled to be nominated for re-election).
- (g) Office Holders will be appointed with a simple majority, except where an Office Holder to the Board has completed two years or more in that position they are required to achieve 60% of the votes to be returned to that position.

5.3 At a meeting specially convened for the purpose, the Board may, by a majority of at least two thirds of the votes cast by the Elected Board Members present and voting when the vote is taken, suspend or remove an Office Holder.

6. DELEGATION TO THE EXECUTIVE TEAM

6.1 The Board may delegate any of its functions to any NFU employee.

6.2 Employees engaged in the NFU Sugar business shall report to the Board in accordance with any instructions provided by the Board, as agreed with NFU.

7. FINANCE AND ADMINISTRATION

Income and Expenditure

7.1 The income of NFU Sugar is derived from the deduction of a levy from grower payments, managed by the Processor, at a rate per adjusted tonne as may be specified in writing by NFU Sugar to the Processor.

7.2 The funds raised by NFU Sugar (or derived from its investment income) shall be applied only in furthering its Objects and exercising its Powers.

Accounts and Audit

7.3 The Board shall ensure that:

- (a) accounting records for NFU Sugar are kept appropriately;

- (b) annual statements of account for NFU Sugar are prepared; and
- (c) the auditing or independent examination of the statements of account of NFU Sugar is undertaken annually.

7.4 The Board of NFU Sugar shall provide such reports to NFU as NFU may require from time to time.

8. ALTERATIONS TO THE TERMS OF REFERENCE

8.1 Subject to the following provisions of this paragraph, the Terms of Reference may be altered by a resolution of the Board proposed at a meeting of the Board of which 21 clear days' notice has been given, detailing the proposed amendment and the reasons therefor. The resolution shall be passed only if two thirds of members present and voting cast their votes in favour of the resolution.

8.2 The proposed amendments shall only come into force once they have been ratified by the Council of NFU in accordance with paragraph 18.2 of the NFU Constitution.

9. NOTICES

9.1 Any notice required to be given to a Grower or Member of the Board shall be validly given if served by post, by hand or email. If served by post, service shall be deemed effected 24 hours after the same has been mailed by first class post. If served by hand, it shall be deemed served when actually delivered to the address provided for service of Notices; and if delivered by email, shall be deemed served when the email as the case may be was sent.

9.2 A Grower may indicate whether he wishes to receive information by post or by email.

9.3 Results of the election will be notified by posting the information on the NFU Sugar website.

10. CONSTRUCTION

In accordance with paragraph 4.2 of the NFU Constitution, the Council is the sole authority for the construction and interpretation of these Terms of Reference. The decision of Council in determining any such construction or interpretation shall be final and binding on the members. Prior to seeking the views of the Council, the Board may seek the views of the Secretary of the NFU and save in exceptional circumstances, his views shall be determinative.

11. INTERPRETATION

11.1 In these Terms of Reference, unless the context otherwise requires:

- (a) the singular shall include plural and vice versa;
- (b) the use of any gender shall include all genders;
- (c) reference to any statute or other legislation shall be deemed to include any amendments to such legislation, statutory modification or re-enactment thereof for the time being in force and any statutory regulations made thereunder;
- (d) references to paragraphs are, unless the context requires otherwise, references to paragraphs of this Constitution.

11.2 The following expression where the context so admits shall have the following meanings:

Appointed Board Members the members of the Board who are appointed by the Board in accordance with paragraph 3.7;

Appointments the panel appointed by the Board pursuant to paragraph 3.7(c) to

Panel	interview applicants and select the Appointed Board Members;
BBRO	British Beet Research Organisation (company registration number 03918877);
Board	the Board of NFU Sugar constituted in accordance with paragraph 3 above;
Co-opted Board Members	the members of the Board who are co-opted by the Board in accordance with paragraph 3.8;
Council	the governing body of the NFU;
Elected Board Members	the members of the Board who are elected by the Growers in accordance with paragraph 3.4;
Election Timetable	the timetable for the annual cycle of elections as determined by the Board, an example of which is set out in the Schedule to the Terms of Reference. (For the avoidance of doubt, the Board of NFU Sugar has complete discretion as to the timetable it sets for any election process);
Factory Area	the areas designated by the Processor in which the Growers are contracted to supply a named factory;
Growers	individual growers of sugar beet in the UK (whether operating in their own name or through any corporate entities) contracting with the Processor to grow sugar beet and paying levies in respect thereof;
Head of NFU Sugar	the most senior employee employed by NFU to work on NFU Sugar business;
IPA	the Inter-professional Agreement entered into between the NFU and the Processor;
NFU	The National Farmers' Union; the association of farmers and growers and others with an interest in agriculture, horticulture and the countryside, governed by the NFU Constitution;
NFU Constitution	the constitution of NFU from time to time in force, as last approved by the Council of NFU on 21 January 2013.
NFU Sugar Assets	all the assets and property of NFU Sugar collected by way of levy from the Growers, received by way of return on investments or otherwise received, as set out in the Accounts of NFU Sugar from time to time;
North East Region	the north east region of England as determined by the NFU;
Objects	the Objects of NFU Sugar set out in paragraph 1;
Office Holders	the members of the Board who are elected by the Board to the positions of Chairman, Vice Chairman and Beet Reception Chairman;
Processor	British Sugar plc (company number 0315158) whose registered office is at Weston Centre, 10 Grosvenor Street, London, W1K 4QY;
Terms of Reference	these terms of reference establishing NFU Sugar;

SCHEDULE

Election Timetable

The proposed timetable for election of Elected Board Members, appointment of Appointed Board Members and appointment of Co-opted Board Members and Office Holders is as follows. This sample timetable is for guidance only and the Board shall have absolute discretion as to the way in which it sets the timetable for elections in accordance with these Terms of Reference.

September Board Meeting	The Board determines the vacancies arising at the following March Board Meeting
October	Notice sent to all Growers seeking nomination for vacancies, setting out timetable and process
November	Nominations Close (after at least 3 weeks) Ballot forms, candidate statements, voting numbers etc. sent out to Growers Ballot Opens
December	Ballot Closes (after at least 2 weeks) Votes Counted
January	Results announced to the Board Board establishes whether Appointed Board Members or Co-opted Board Members are needed in order to ensure the Board has the necessary mix of skills, experience and geographical representation.
January/February	Advertise for Appointed Board Members Appointments Panel meet and appoints Appointed Board Members
March	First meeting of the newly elected board members. The Board appoints its Office Holders for the next year.