

TERMS & CONDITIONS OF SALE

By submitting a credit application and/or ordering goods (“goods”) or services (“services”) Australian Agribusiness (Holdings) Pty Ltd ABN 61 135 355 958 trading as Australian Agribusiness / Accensi / Amgrow / Globe Pest Solutions / Nuturf (“Company”) the Purchaser agrees that the following terms and conditions of sale (“Conditions”) will apply to the supply.

1. INTERPRETATION

(a) Definitions

The following words have the following meanings in these Conditions, unless the context requires otherwise:

Anti-Corruption Law means any law prohibiting or relating to bribery, corruption, kickbacks, secret commissions or money laundering, including the Foreign Corrupt Practices Act 1977(US), the Bribery Act 2010 (UK), the Criminal Code Act 1995 (Cth), the Crimes Act 1961 (NZ), the Secret Commissions Act 1910 (NZ) and any anti-corruption regulations and provisions applicable in the European Union or in any other locations in which any member of the Australian Agribusiness Group carries on business.

APVMA means the Australian Pesticides and Veterinary Medicines Authority;

Australian Consumer Law means the Australian Consumer Law in the *Competition and Consumer Act 2010* (Cth).

Company means Australian Agribusiness (Holdings) Pty Ltd ABN 61 135 355 958 trading as Australian Agribusiness and includes any subsidiary or member of the Australian Agribusiness Group that is named as the party making or accepting an order.

Consumer means a consumer as that term is defined in the Australian Consumer Law.

Consumer Contract means a contract for the supply of goods or services to an individual whose acquisition of the goods or services is wholly or predominantly for personal, domestic or household use or consumption. However, if the relevant parts of the definition of ‘Consumer Contract’ under the Australian Consumer Law are amended at any time, this definition is also amended accordingly.

Contract has the meaning given to that term in clause 2(a).

Customer means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.

Australian Agribusiness Group means Australian Agribusiness (Holdings) Pty Ltd (ABN 61 135 355 958) and its related body corporate (as that term is defined in the Corporations Act 2001 (Cth)).

Force Majeure Event means any event outside a party's reasonable control including acts of God, declared or undeclared war, act of terrorism, fire, flood, storm, earthquake, hurricane, cyclone, riot, pandemic, power failure, industrial action, defaults of manufacturers or suppliers, the inability to obtain equipment, supplies or other facilities that are not caused by a failure to pay, labour disputes, theft, any criminal act or other similar events beyond a party's control that may prevent or delay a party from performing their obligations under any Contract.

Goods means any goods or services supplied by the Company to the Purchaser pursuant to the Conditions. Where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other.

Interest Rate means the rate of 3% above the cash rate last published by the Reserve Bank of Australia (as at the due date for payment).

PPSA means the Personal Property Securities Act 2009 (Cth).

Purchaser means a person whose order for the purchase of Goods or Services is accepted by the Company.

Small Business Contract means a contract for the supply of goods or services where:

(1) at the time the contract is entered into, at least one party to the contract is a business that employs fewer than 20 persons; and

(2) either of the following applies:

(A) the upfront price payable under the contract does not exceed \$300,000;

(B) the contract has a duration of more than 12 months and the price payable under the contract does not exceed \$1,000,000.

However, if the relevant parts of the definition of 'Small Business Contract' under the Australian Consumer Law are amended at any time, this definition is also amended accordingly.

Services means any services supplied by the Company to the Purchaser pursuant to the Conditions

(b) Interpretation

The following rules apply in the interpretation of the Conditions, unless the context requires otherwise:

- (i) a reference to the singular includes the plural number and vice versa;
- (ii) "includes" or "including" is not a term of limitation; and
- (iii) person includes a firm, corporation, body corporate, unincorporated association and a governmental authority.

2. OFFER AND ACCEPTANCE

(a) The contract between the Purchaser and the Company is constituted by:

- (i) the Conditions;
- (ii) the terms of the credit agreement between the Purchaser and the Company set out in Application for a Commercial Credit Account (**Credit Terms**); and
- (iii) the extent to which the Company accepts an order in accordance with clause 2(b) (each a **Contract**).

The Conditions, the Credit Terms and the extent to which the Company accepts the order govern all contracts for the supply of Goods and/or Services by the Company to the Purchaser and constitute the entire agreement in connection with supply of Goods and/or Services between the Company and the Purchaser. All prior representations, trade custom or previous dealings between the Company and the Purchaser are excluded and are not applicable in the interpretation of the Contract. No modification or variation to the Conditions or the Credit Terms, any additional terms or conditions or any terms inconsistent with the Conditions or the Credit Terms provided by the Purchaser (whether put forward in the order, the Purchaser's specification or otherwise) will bind the Company, unless expressly and specifically agreed to in writing by the Company. The Conditions and the Credit Terms supersede any terms and conditions which have previously governed a contract for the sale of Goods or Services by the Company to the Purchaser. The Conditions and Credit Terms will prevail to the extent of any inconsistency between them and any quotation, order or other documents from the Purchaser. The Conditions and Credit Terms bind the Purchaser even if the Company or the Purchaser do not sign them promptly or at all.

(b) Any quotation or price list given by the Company is not an offer to sell or to provide the Goods or Services and no order given in pursuance of any quotation will bind the Company until accepted by it in writing or by the commencement of supply or the provision of Goods or Services. Unless otherwise agreed in writing, all orders are subject to acceptance by the Company within 30 days of receipt by the Company of the Purchaser's order either in writing or by overt act of acceptance. The Company may accept or refuse any order for Goods or Services in its absolute discretion and may make its acceptance of an order conditional upon it receiving a satisfactory credit assessment of the Purchaser.

(c) Notwithstanding any prior or existing agreement, the Company reserves the right to vary the quote or price list by giving notice to the Purchaser. If the Contract is a Consumer Contract or a Small Business Contract, then the Purchaser may consider the variation and, if not acceptable, may elect not to proceed with the purchase of Goods and Services ordered before the date of variation, but which are intended to be subject to the variation, by providing written notice to the Company. Otherwise, the Purchaser agrees that Goods delivered or Services performed and/or ordered after the date of the notice of variation will be subject to the variation and acceptance of the Goods or Services or the placing of the order will be deemed to be an acceptance of such varied terms and conditions.

(d) The Customer accepts that a minimum order surcharge may apply to orders totalling \$300 or less (exclusive of GST), unless the Customer is at Australian Agribusiness' warehouses (including mobile stores or product carried by a Territory Manager).

(e) Australian Agribusiness reserves the right to suspend or discontinue a line of Goods at any time.

(f) Within a reasonable time after receipt of the Order and with the Customer being notified, Australian Agribusiness may, for any reason, decide not to supply the Products the subject of the Order. Australian Agribusiness conducts its toll manufacturing service on a "first come, first served" basis, and production is scheduled accordingly. The company may in its absolute discretion reschedule production dates and will not be liable to the Customer for any loss or damage suffered as a result of the non-supply or re-scheduling of production dates. Where applicable, all raw materials, including labels and packaging must be physically on the company's premises by close of business on the Wednesday prior to the week of scheduled manufacture.

(g) For the avoidance of doubt, no terms or conditions of the Customer are binding on the Company unless expressly agreed to in writing.

3. DELIVERY OF GOODS AND SERVICES

(a) Any date quoted for delivery or performance is an estimate only and unless a guarantee has been given by the Company in writing providing for liquidated damages for failure to deliver by the quoted date, the Company will not be liable to the Purchaser for any failure to deliver or perform on or before the quoted date. The Purchaser will accept and pay for Goods and Services if and when delivered or performed notwithstanding any failure by the Company to deliver the Goods or perform the Services by the quoted date.

(b) The Company reserves the right to deliver by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions. If delivery is made by separate instalments, the Purchaser will not be entitled to:

(i) terminate or cancel the Contract in whole or in part; or

(ii) make any claim for failure by the Company to deliver any instalments on or before the quoted date.

(c) The Company will not be responsible for delay in manufacture or delivery caused by any Force Majeure Event.

(d) Any quotation containing a provision to supply Goods “ex stock” is subject to fulfilment of prior orders at the date of receipt of the Purchaser’s order.

(e) The Company is not responsible for the loading, transportation or clearing for export, of the Products in relation to intrastate, interstate or international transport, unless otherwise agreed to by the Company. The customer bears all costs and risks involved in taking the products from the Company’s premises, irrespective of the type of Delivery.

4. CANCELLATION

Without limiting any statutory entitlement of a Consumer to rescind a Contract or any right to do so under the Conditions, any order may only be cancelled, varied or suspended with the written consent of the Company and in the event of such cancellation, variation or suspension, the Purchaser undertakes to reimburse and indemnify the Company for any costs, expenses or charges incurred by the Company in preparation for, and in the execution of, an order for Goods or Services that will no longer be supplied to the Purchaser as a result of the cancellation, variation or suspension.

The company may suspend or cancel delivery of the Products if it reasonably believes that the Products may cause injury or damage (including for technical, scientific, medical or efficacy reasons) or may infringe the intellectual property rights of any person, or if there are any

monies whatsoever owing from the Customer to the Company. No such suspension or cancellation will in any way constitute admission of liability or fault on the Company's part.

5. QUANTITIES

No claim for shortage of delivery or shortfall or excess in capacity or performance of less than 10% (ten percent) of that ordered will be made by the Purchaser and in any event will not exceed the invoiced unit price of the Goods in respect of which the claim is made. Excess delivery of up to ten per cent of quantities ordered will be accepted by the Purchaser and payment made for such excess quantities.

6. DESCRIPTION AND SPECIFICATIONS

(a) If the Purchaser is not a Consumer and the Contract is not a Consumer Contract or a Small Business Contract, whilst every effort is made to ensure their accuracy, the descriptions, illustrations and material contained in any catalogue, price list, brochures, leaflets or other descriptive matter provided by or on behalf of the Company, represent the general nature only of the items described therein and, save where the Company has accepted an order for Goods or Services specified as so described or illustrated, will not form any part of the Contract or amount to any representation or warranty and, save as aforesaid, the use of such description or illustration will not constitute a contract of a sale by description.

(b) The Company reserves the right to modify the design of Goods without notice. However, if the Contract is a Consumer Contract or a Small Business Contract, the Company will give written notice of the modification to the Purchaser and the Purchaser may consider the modification. If the modification is not acceptable to the Purchaser, the Purchaser may elect not to proceed with the purchase of Goods or Services ordered before the date of the notice but which are intended to be subject to the modification.

(c) The Purchaser warrants that any Goods manufactured, constructed or supplied by the Company and Services performed by the Company, which are based in whole or in part upon designs, drawings or specifications supplied to the Company by or on behalf of the Purchaser will not infringe any letters patent, registered designs, copyright or other rights of any third party.

(d) If the Purchaser is not a Consumer and the Contract is not a Consumer Contract or a Small Business Contract, the Company does not warrant or guarantee, and it will not be a term of any Contract, that any Goods manufactured, constructed or supplied by the Company or Services performed by the Company which are based upon any designs drawings or specifications supplied to the Company by or on behalf of the Purchaser, will achieve any standard of performance or capacity whatsoever and the Purchaser acknowledges that it does not rely on

the skill and judgment of the Company for the fitness for any purpose of any Goods so manufactured, constructed or supplied or Services performed by the Company.

7. ACCESS

In respect of any work done on the Purchaser's premises or elsewhere (other than at the Company's premises), it will, subject to any written agreement to the contrary, be the duty of the Purchaser to ensure that the conditions under which the work has to be performed, the layout, means of access, accessibility of the different parts of the subject matter being worked upon or handled and other material circumstances will be suitable to the Company failing which the Company will be entitled to charge a reasonable increase in the price having regard to the prevailing circumstances. If the Contract is a Consumer Contract or a Small Business Contract, the Company will give written notice of the price increase to the Purchaser. If the price increase is not acceptable to the Purchaser, the Purchaser may elect not to proceed with the purchase of Goods or Services ordered before the date of the notice but which are intended to be subject to the price increase.

8. WAIVER

Failure by the Company to insist upon strict performance of any term of a Contract will not be deemed a waiver of any rights which the Company may have and will not, and nor will any express waiver, be deemed to be a waiver of any subsequent breach of the Contract.

9. LIABILITY

(a) The Purchaser may only return Goods with the prior approval of the Company in accordance with the Company's returns policy published at the date of the invoice. The proof of purchase from the Purchaser must accompany all Goods returned to the Company. Goods accepted for return by the Company may attract a charge to recover restocking and repackaging charges. The amount of this charge will be determined by the Company and debited to the credit account of the Purchaser.

(b) If the Purchaser is a Consumer, the provisions of this clause 9(b) apply.

(i) The Goods and Services come with guarantees that cannot be excluded under the Australian Consumer Law. The Purchaser is entitled to a replacement or refund for a major failure and to compensation for any other reasonably foreseeable loss or damage in accordance with the Australian Consumer Law. The Purchaser is entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure. The Purchaser is entitled to have Services re-supplied or be paid for the cost of having the Services re-supplied if the Services do not comply with the guarantees.

(ii) The guarantees under the Australian Consumer Law are given by the Company.

(iii) If the Purchaser believes the Goods or Services do not comply with the statutory guarantees, they must contact the Company and the parties may make arrangements for the return of the Goods. Any returned Goods must be accompanied by proof of purchase. If the Company agrees that the Goods or Services do not comply with the statutory guarantee, the Company will refund the costs of returning the Goods to the Company and, in all other respects, act in accordance with its obligations under the Australian Consumer Law.

(iv) Subject to clause 9(b)(ii), all other terms, representations, warranties, guarantees and conditions that might otherwise be granted or implied by law are expressly excluded to the maximum extent permitted by law, unless agreed by the Company in writing. The Company does not exclude, restrict or modify any liability that cannot be excluded, restricted or modified except to a limited extent, as between the Company and the Purchaser by law.

(c) If the Purchaser is not a Consumer, the provisions of this clause 9(c) apply.

(i) All claims for the Company's failure to comply with the Purchaser's order whether due to shortfall, defect, incorrect delivery or otherwise must be made by giving written notice to the Company within fourteen (14) days from the date of delivery of Goods or the performance of Services. If the Purchaser fails to provide such notice then the Purchaser will be deemed to have accepted the Goods and Services.

(ii) All terms, representations, warranties and conditions that might otherwise be granted or implied by law are expressly excluded to the maximum extent permitted by law, unless the Company agrees in writing. The Company does not exclude, restrict or modify any liability that cannot be excluded, restricted or modified except to a limited extent, as between the Company and the Purchaser by law.

(iii) The Company's liability for breach of a non-excludable condition or warranty is limited at the Company's option, to any one of the following:

(A) the replacement of the Goods or the supply of equivalent Goods;

(B) the repair of the Goods;

(C) the payment of the cost of providing replacement Goods or of acquiring equivalent Goods;

(D) the payment of the cost of having the Goods repaired; or

(E) in the case of Services, the re-supply of the Services or paying for the cost of re-supplying the Services.

(iv) Neither the Company or the Purchaser is liable to the other:

(A) for any loss, cost, damage or expense to the extent that it is for indirect, special, economic or consequential loss, where consequential loss means any loss, cost, damage or expense beyond the normal measure and beyond that which every plaintiff in a like situation would suffer; and

(B) for any loss of revenue, business or profits or any nature whatsoever, loss of expected savings, loss of chance or business opportunity, business interruption, loss or reduction of goodwill or damage to reputation or any loss of value of intellectual property.

(d) The Purchaser indemnifies the Company for any loss, cost, damage or expense suffered by the Company arising from or in connection with any failure to install the Goods in accordance with their applicable installation instructions and manuals provided with the Goods or to operate the Goods in accordance with their applicable operation instructions and manuals provided with the Goods or in connection with the negligence of the Purchaser including in relation to the installation or operation of the Goods.

10. CONTAINERS

Containers (which includes stillages and pallets) in or on which Goods are delivered and for which a deposit charge is made, remain the property of the Company. On the container's return in good order and condition, the deposit will be returned to the Purchaser. The deposit for containers which the Purchaser returns otherwise than in good order and condition will only be refunded in part having regard to their actual condition. Containers will be deemed to be not returned by the Purchaser until received into the Company's stores.

11. INSOLVENCY & DEFAULT

If:

(a) the Company has any reasonable grounds to believe that the Purchaser may not be able to make due and punctual payment to the Company of any monies owing by the Purchaser or there is any default or failure by the Purchaser in making such payments

(b) the Purchaser fails to take delivery of any Goods;

(c) a resolution is passed or proposed or a petition is presented or an application filed for the winding up of the Purchaser;

(d) a receiver or receiver and manager is appointed in respect of the property or any part of the property of the Purchaser;

(e) the Purchaser makes or proposes to make any arrangement with its creditors;

(f) the Purchaser is placed under administration;

(g) execution is levied upon the assets of the Purchaser for an amount in excess of \$1,000.00 and is not within seven days satisfied;

(h) there is a material breach by the Purchaser of any Contract or any agreement between the Purchaser and any other member of the Australian Agribusiness Group; or

(i) contractual performance by either the Company or the Purchaser is delayed or prevented due to a Force Majeure Event,

then,

(j) all monies payable by the Purchaser to the Company may, at the Company's election, become immediately due and payable notwithstanding the due date for payment may not have expired; and

(k) the Company may at its option:

(i) suspend, vary or withdraw any approved credit limit which may have been provided to the Purchaser;

(ii) withhold further deliveries of Goods or performance of Services;

(iii) immediately terminate or suspend the whole or any outstanding part of any Contract;

(iv) in respect of any Goods delivered in which title has not passed to the Purchaser, enter onto the Purchaser's premises to recover and resell the Goods for its own benefit;

(v) recover from the Purchaser the cost of materials or goods acquired for the purpose of future deliveries of Goods or the performance of Services;

(vi) exercise such rights as are afforded to the Purchaser under the PPSA; and

(vii) register a default with any credit reference facility.

12. TITLE

(a) Title in and to the Goods will not pass from the Company to the Purchaser until the Company receives payment (without deduction or set-off) in full for all Goods and Services and all monies owing by the Purchaser to the Company on any account whatsoever.

(b) Until title in and to the Goods has passed to the Purchaser in accordance with clause 12(a), the Purchaser holds the Goods as fiduciary agent and bailee and the Purchaser will store the Goods separately in such a manner that they are clearly identified as the property of the Company.

(c) Notwithstanding that title in and to the Goods may not have passed to the Purchaser, the Purchaser may sell the Goods to a customer in the ordinary course of its business. In such circumstances, the Purchaser sells the Goods as fiduciary agent of the Company provided that such sales will not give rise to any obligations on the part of the Company.

(d) If the Purchaser sells any of the Goods before title in and to the Goods has passed in accordance with clause 12(a), the Purchaser will hold such part of the proceeds of sale equal to the amount owed by the Purchaser to the Company on trust for the Company and will hold such proceeds in a separate account which clearly identifies such proceeds as monies held on trust for and on behalf of the Company.

(e) If the Purchaser uses the Goods in manufacturing or production and sells the finished product in the ordinary course of business (which it is authorised to do unless otherwise notified in writing) the Purchaser must hold that part of the proceeds of the finished product relating to the Company's Goods in a separate account on trust for the Company. That part will be taken to be of equal value to the amount owing by the Purchaser to the Company at the time of receipt of the proceeds.

(f) The Purchaser will insure the Goods against theft or any damage until such Goods have been paid for or until they are sold by the Purchaser whichever occurs first and the Company will be entitled to call for details of the insurance policy. Excluding Consumer Contracts and Small Business Contracts, if the Purchaser does not insure the Goods or fails to supply details of the insurance policy, the Purchaser will reimburse the Company for the cost of any insurance which the Company may reasonably arrange in respect of the Goods supplied to the Purchaser.

(g) Title to all technical, raw materials, packaging and active constituents used in the Services (including while in the Service process) supplied by the Company will remain with the Company.

Title to all technical, raw materials, packaging and active constituents used in the Services (including while in the Service process) supplied by Customer will remain with Customer.

13. SECURITY INTEREST UNDER PPSA

(a) The Purchaser agrees that:

(i) each order accepted by the Company, being an order accepted under the Conditions, may create a registrable security interest under the PPSA in any Goods supplied under it and their proceeds;

(ii) it will do all things necessary and execute all documents reasonably required to register the security interest and to ensure that the Company acquires a perfected security interest in the Goods and their proceeds under the PPSA;

(iii) the Purchaser acknowledges the right of the Company to register a financing statement under the PPSA with respect to the security interest created by the Conditions;

(iv) if the Company registers a security interest under the PPSA, the Company may exercise any or all remedies afforded to the Company as a secured party under it without prejudice to any other rights or remedies arising out of a breach by the Purchaser of any agreement with the Company;

(v) the Goods are collateral for the purposes of the PPSA; and

(vi) it will, upon demand, pay all of the Company's reasonable expenses and legal costs in relation to or in connection with the registration of the Company's security interest and all other costs associated with protection and enforcement of the Company's security interest created by the Conditions or by undertaking an audit under the provisions of the PPSA.

(b) The Company's security interest does not lose its priority as a result of the renewal, refinance, consolidation or restructure of the subject matter of the Conditions and any purchase money obligations.

(c) The Purchaser waives its rights under the following provisions of the PPSA, to the extent that it is permitted by law, to:

(i) receive a notice of intention of removal of an accession (s.95);

- (ii) receive a notice that the Company has determined to enforce its security interest in accordance with land law (s118);
- (iii) receive a notice of enforcement action against liquid assets (s121(4));
- (iv) receive a notice of disposal of Goods by the Company purchasing the Goods (s129);
- (v) receive a notice to dispose of the Goods (s130);
- (vi) receive a statement of account following disposal of the Goods (s132(2));
- (vii) receive a statement of account if no disposal of the Goods, six monthly (s132(4));
- (viii) receive notice of any proposal by the Company to retain the Goods (s135(2));
- (ix) object to any proposal by the Company to either retain and dispose of the Goods (s137(2));
- (x) redeem the Goods (s142);
- (xi) reinstate the security agreement (s143); and
- (xii) receive a notice of any verification statement (s157(1) and 157(3)).

(d) To the extent permitted by the PPSA, the Conditions exclude any provisions of the PPSA which may be excluded in the Company's discretion and which would otherwise confer rights on the Purchaser.

(e) The Purchaser further agrees that where the Company has rights in addition to those under Part 4 of the PPSA, those rights will continue to apply.

(f) The Purchaser's right to possession of Goods still owned by the Company under the Conditions will cease if:

- (i) where the Purchaser is an individual, the Purchaser commits an act of bankruptcy;
- (ii) where the Purchaser is a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of the Purchaser's assets, any proceedings are instituted for winding up of the Purchaser or the Purchaser enters into a Deed of Company Arrangement;

(iii) the Purchaser ceases or threatens to cease conducting business in the normal manner or applies for deregistration or receives a deregistration notice;

(iv) any cheque the Purchaser provides to the Company or any member of the Australian Agribusiness Group is dishonoured for payment;

(v) the Purchaser fails to comply with any demand for payment issued by the Company or any member of the Australian Agribusiness Group; or

(vi) the Purchaser breaches any of the Conditions and/or is in default of any other agreement between the Company or any other member of the Australian Agribusiness Group and the Purchaser.

(g) The Purchaser expressly and irrevocably agrees that, until such time as title in the Goods passes to the Purchaser, the Company is entitled to enter any premises where the Goods supplied by the Company are located to repossess, remove and sell such Goods. The Purchaser (its successors and assigns, including any external manager or administrator) will not object to the Company, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Company indemnified in respect of any claims, actions and costs that may arise against the Company in relation to the removal, repossession and sale of the Goods pursuant to the Conditions including any claims brought by third parties, except to the extent that the Supplier has been negligent or breached the law or the Contract.

(h) The Purchaser agrees that repossession and retention of the Goods pursuant to the PPSA will only satisfy so much of the monies which may become payable to the Company by the Purchaser, as is equivalent to the Company's estimation of the market value of the Goods as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest the Company has on the value of the Goods recovered.

(i) Until ownership of the Goods passes, the Purchaser must not give the Company a written demand or allow any other person to give the Company a written demand requiring the Company to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

(j) The Purchaser agrees not to change the Purchaser's name or undertake any changes to any documents that the Company has registered, requires to be registered or are capable of being registered without the prior written consent of the Company.

14. RISK

(a) Unless otherwise agreed in writing, all Goods will be at the Purchaser's risk upon delivery to the Purchaser, its carrier or agent.

(b) If the Customer requests Australian Agribusiness to leave Goods outside the Company's premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Customer's sole risk.

As strict control cannot be exercised over conditions influencing seed responses (including, without limitation, weather, plant and soil conditions, seed quality and strike rate, weed growth) Australian Agribusiness accepts no responsibility or liability for any failure in performance, losses, damages or injuries (consequential or otherwise) arising from storage, handling, mixing, application or use. The Customer assumes all responsibility for the correct selection, storage, use and application of the Goods.

(c) Where Australian Agribusiness gives advice, recommendations, information, assistance or service to the Customer or the Customer's agent, regarding the Goods or Services then it is given in good faith and Australian Agribusiness shall not be liable in any way whatsoever for any damages, losses or costs however arising resulting from the Customer relying on the same.

(d) The Customer acknowledges that all descriptive specifications, illustrations, drawings, data, dimensions, ratings and weights stated in Australian Agribusiness' or manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by Australian Agribusiness.

The Customer shall be responsible for ensuring that the Goods ordered are suitable for their intended use.

(e) Notwithstanding any agreements that may have been made, the Customer's technical, raw materials, packaging and products are and remain at the sole risk of the Customer at all times. The Company will use its best endeavours to care for the Customer's technical, raw materials, packaging and products. The Company provides no warranty in relation to and accepts no liability for the safe handling, return and care of the Customer's technical, raw materials, packaging and products.

15. PAYMENT

(a) Until the Company confirms that a credit facility has been granted to the Purchaser, all Goods and Services must be paid for on a cash on delivery or performance basis. Once a credit facility has been granted, unless otherwise agreed in writing, the Purchaser must make payment

for all Goods and Services within 30 days from the end of the month in which the Goods are delivered to the Purchaser, its carrier or agent or the Services are performed by the Company.

(b) If payment is not received by the Company within the time frame allowed for in clause 15(a):

(i) the Company reserves the right to charge interest on monies due at the Interest Rate on a daily basis from the due date for payment until the actual date of payment and payable together with the overdue amount. The parties agree that any interest charged in accordance with clause 15(b)(i) is a genuine pre-estimate of the loss that will be suffered by the Company for late payment; and

(ii) the Company will apply a surcharge for any payments by an accepted credit card to cover any costs associated with the acceptance of credit cards.

(c) If the Company does not receive forwarding instructions sufficient to enable it to dispatch the Goods within 14 days of notification that they are ready, the Purchaser will be deemed to have taken delivery of the Goods and the terms of payment will apply from such date. The Purchaser will be liable for storage charges payable monthly on demand, with storage being at the Purchaser's risk.

(d) Payment of any amount by the Purchaser must be treated as being received in the following order:

(i) first, to obligations that are not secured ("secured" in this clause means secured under the PPSA), in the order in which those obligations were incurred;

(ii) second, to obligations that are secured, but not by purchase money security interests, in order in which those obligations were incurred; then,

(iii) third, to obligations that are secured by purchase money security interests, in the order in which those obligations were incurred.

(e) The Company may without notice vary the Purchaser's credit limit for any reason at its discretion, or if the Purchaser is in breach of a condition of the Contract, withdraw the Purchaser's credit facilities.

(f) The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Australian Agribusiness nor to withhold payment of any invoice because part of that invoice is in dispute.

16. SECURITY FOR PAYMENT

If the Contract is not a Consumer Contract or a Small Business Contract:

(a) the Purchaser as beneficial owner hereby charges in favour of the Company (and where there is more than one person trading together as the Purchaser, jointly and severally) all freehold and leasehold interests in land which the Purchaser now has or may acquire with the payment of all money which becomes owing to the Company by the Purchaser;

(b) the Purchaser further acknowledges that the Company is entitled to register a caveat at LPI NSW or the equivalent authority in another State or Territory to protect its interest under such charge; and

(c) the Purchaser agrees that if a demand is made by the Company to execute a mortgage or other instrument of security, that in the event that the Purchaser fails to do so within a reasonable time of being so requested, the Purchaser hereby irrevocably and by way of security, appoints any credit manager or solicitor engaged by the Company to be its true and lawful attorney to execute and register such instruments.

17. PRICE

(a) Unless otherwise expressly agreed in writing, the price of the Goods and Services will be that price charged by the Company at the date of delivery or performance plus the amount which the Company is required to pay on account of any goods and services tax, excise or any other taxes or charges which may be established or levied by any governmental authority (domestic or foreign) upon the Goods or Services or any part thereof, or the manufacture, use, sale of or delivery thereof.

(b) Unless otherwise specified, any prices quoted do not include transportation costs. Goods will be supplied ex works.

(c) The prices quoted are based on present day cost of labour and materials and will be subject to variation at the option of the Company.

(d) If the Contract is a Consumer Contract or a Small Business Contract, then the Purchaser may consider any price variations referred to in this clause and, if not acceptable, may elect not to proceed with the purchase of the Goods and Services ordered before that date of variation, but which are intended to be subject to the variation.

(e) The Purchaser must not assert any right of set off against the Company and will pay all amounts owing to the Company without deduction.

18. GST

(a) In the Conditions, the expressions “GST”, “tax invoice”, “recipient” and “taxable supply” have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

(b) Unless stated otherwise, the price quoted by the Company and any other amount payable by the Purchaser under any Contract does not include GST.

(c) If GST is imposed on any supply made under or in accordance with any Contract, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with the Contract, subject to the provision of a tax invoice.

19. PRIVACY

(a) The Purchaser acknowledges and agrees that the Company may collect personal information and credit information (as those terms are defined in the *Privacy Act 1988* (Cth)) about the Purchaser and its directors, officers, partners and the guarantors (each a **Relevant Party**), such as billing, delivery names and addresses, to assess the Purchaser’s credit application and for the other credit reporting purposes.

(b) The Company’s Privacy Policy, available on its website or upon request to the Company, forms part of each Contract.

(c) If the Purchaser provides to the Company personal information or credit information about any other person, it is the Purchaser’s responsibility to bring to their attention the contents of this clause 19. The Purchaser warrants to the Company that it has obtained the consent of each of the Relevant Parties to the collection, use and disclosure of the personal information and credit information by the Company in accordance with this clause 19 and the Company’s Privacy Policy.

(d) The Company may disclose the personal information and credit information to its agents, contractors and external advisers (for example, transport contractors and debt collection agencies) who are bound by confidentiality obligations.

(e) The Company’s website may be hosted, or some data may be stored overseas for reasons of uniformity and convenience for the Australian Agribusiness Group. All personal information or credit information derived from Australia will still be treated in accordance with the Company’s Privacy Policy while being stored overseas.

(f) In accordance with the Privacy Policy, the Purchaser agrees that the Company may use or disclose information to the Australian Agribusiness Group and to third parties for the purpose of providing the Goods and Services, providing information about goods and services; sending information on the Australian Agribusiness Group and its services; performing the Australian Agribusiness Group's administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by law; considering any other application the Purchaser may make to the Company or any other member of the Australian Agribusiness Group; managing the Company's rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of the Australian Agribusiness Group's goods and services; and developing and identifying products and services that may interest the Purchaser.

(g) Failure to provide requested personal information or credit information may mean the Company is unable to provide the Goods or Services requested.

(h) Requests for access to personal information or credit information held by the Company should be made to the Company's Privacy Officer who may be contacted using the address or telephone number printed elsewhere on this form.

(i) The Purchaser consents to any electronic address it has set out on the application form being used by the Company to send the Purchaser electronic messages for the purposes of administering the Purchaser's account and, unless the Company is told otherwise, for marketing purposes.

20. ELECTRONIC TRANSACTIONS ACT 2000

Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

21. CHANGE IN CONTROL

The Customer shall give Australian Agribusiness not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Australian Agribusiness as a result of the Customer's failure to comply with this clause.

22. DEFECTS, WARRANTIES AND RETURNS, COMPETITION AND CONSUMER ACT 2010 (CCA)

(a) The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify Australian Agribusiness in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Australian Agribusiness to inspect the Goods.

(b) Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).

(c) Australian Agribusiness acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

(d) Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Australian Agribusiness makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Australian Agribusiness's liability in respect of these warranties is limited to the fullest extent permitted by law.

(e) If the Customer is a consumer within the meaning of the CCA, Australian Agribusiness's liability is limited to the extent permitted by section 64A of Schedule 2.

(f) If Australian Agribusiness is required to replace the Goods under this clause or the CCA, but is unable to do so, Australian Agribusiness may refund any money the Customer has paid for the Goods.

(g) If the Customer is not a consumer within the meaning of the CCA, Australian Agribusiness's liability for any defect or damage in the Goods is:

- (i) limited to the value of any express warranty or warranty card provided to the Customer by Australian Agribusiness at Australian Agribusiness's sole discretion;
- (ii) limited to any warranty to which Australian Agribusiness is entitled, if Australian Agribusiness did not manufacture the Goods;
- (iii) otherwise negated absolutely.

(h) Subject to this clause, returns will only be accepted provided that:

- (i) the Customer has complied with the provisions of clause (a); and

- (ii) Australian Agribusiness has agreed that the Goods are defective; and
- (iii) the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
- (iv) where applicable, include a packing slip quoting Australian Agribusiness's delivery note number and delivery date; and
- (v) the Goods are returned in as close a condition to that in which they were delivered as is possible.

(i) Notwithstanding clauses (a) to (h) but subject to the CCA, Australian Agribusiness shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

- (i) the Customer failing to properly maintain or store any Goods;
- (ii) the Customer using the Goods for any purpose other than that for which they were designed;
- (iii) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
- (iv) the Customer failing to follow any instructions or guidelines provided by Australian Agribusiness;
- (v) fair wear and tear, any accident, or act of God.

(j) Australian Agribusiness may in its absolute discretion accept non-defective Goods for return in which case Australian Agribusiness may require the Customer to pay handling fees of up to twenty percent (20%) of the value of the returned Goods plus any freight costs.

(k) Notwithstanding anything contained in this clause if Australian Agribusiness is required by a law to accept a return then Australian Agribusiness will only accept a return on the conditions imposed by that law.

23. PROPRIETARY RIGHTS

(a) The Customer acknowledges that The Company will retain all copyright and other proprietary rights in any Confidential Information, Intellectual Property and Materials.

(b) The Customer must not use Confidential Information, Intellectual Property or Materials or their contents for any purpose other than the purpose for which they were provided.

(c) The Customer must consider absolutely confidential and not disclose, transfer, transmit or otherwise make available to any third party in any manner or form, any Confidential Information, Intellectual Property or Materials or their contents or any information relating to them or the Products without the written consent of The Company.

24. INDEMNITY AND COSTS

(a) The Customer indemnifies The Company in respect of any claim, action, proceeding, judgment, damage, loss, expense or liability, including legal costs on a solicitor and own client basis, incurred or suffered by or brought or made or recovered against The Company in connection with a breach of any warranty, representation, acknowledgement or agreement contained in these Conditions of Sale or Agreement, or by reason of any of them being in any way incorrect, inaccurate, misleading or deceptive.

(b) The Customer shall pay any losses, expenses, damages, commissions, interest and costs, including solicitor and own client legal costs, arising from the Customer's failure to comply with its obligations, including payment of all invoices, under a Purchase Agreement and the Conditions of Sale. Such losses, expenses, damages, commissions, interest and costs may be recovered by The Company as a liquidated debt.

(c) Registration and lodgement fees, Taxes or any other kinds of government charge or fee incurred as a result of the sale of the Products by The Company to the Customer shall be paid by the Customer.

25. FORMULATION/SPECIFICATIONS/REGISTRATIONS

(a) The Customer warrants that, (if required by Law), that the Products to be produced by the Company in accordance with any Order are registered with the APVMA or relevant authority, and if applicable, The Company manufacturing site(s) are included on the registration details.

(b) If the formulation is owned and/or supplied by the Customer, the Company will formulate in accordance with manufacturing instructions and final specifications provided, but accepts no responsibility for the performance of the Products.

(c) If the Products are manufactured to an The Company owned and/or supported formulation, The Company accepts responsibility for the stability of the formulation, on condition that the technical supplied is of a quality which allows The Company to do so.

(d) Whether an The Company-owned or a Customer-owned formulation, the performance of the Products and any claims whatsoever relating to this are the responsibility of the Customer and/or registrant and, The Company's liability does not extend beyond replacement of the Products.

(e) In the absence of the Customer providing specifications for residual impurities for the Products to The Company, The Company will formulate the Products to be compliant with the US EPA toxicologically significant levels.

26. ACTIVE CONSTITUENTS (TECHNICAL)

(a) The Customer warrants that where applicable all technical grade active constituents supplied to The Company for manufacture have TGAC registration with the APVMA, if required by any relevant Law.

(b) A Certificate of Analysis must be supplied for every batch of Technical delivered to The Company's sites, prior to arrival of each shipment.

(c) Active constituents must be packed by the Customer in suitable size and type of packaging as to allow economical and safe manufacture. The Company reserves the right to refuse delivery of, or to process, any Technical packaged in a manner which The Company deems to be unsafe or unsuitable. A list of acceptable pack sizes for Technical can be obtained from The Company upon request.

(d) The Customer warrants that (1) the Technical supplied is suitable for manufacture of the intended Products, and (2) the Technical is of a physical form and state that allows efficient manufacturing to occur. The Company reserves the right to refuse production if the technical does not conform, as determined by The Company, with (1) and (2) above. The Company accepts no responsibility for failure in any way of Products caused by substandard quality active constituents.

(e) Upon acceptance of Orders, The Company undertakes to unpack containers of Technical delivered to its premises, and unless specifically stated otherwise, the cost is included in the tolling charges. The Company require a minimum of 3 weeks' notice of the arrival of Technical.

(f) The Company reserves the right to refuse delivery of Technical for any reason whatsoever, and accepts no responsibility for any consequences of such action.

27. QUALITY CONTROL SAMPLES – FOR TOLL MANUFACTURING ONLY

(a) Each batch of Products made, where applicable, will be tested in The Company's laboratory, and will not be passed unless it meets Quality Control specifications.

(b) A Certificate of Analysis will be issued for each batch which will contain all relevant information including batch number(s) of the technical used.

(c) The Company will retain a sample of every batch manufactured for a period of two (2) years or longer if agreed with the Customer, after which time it will be disposed of.

(d) The Company do not draw or retain samples of the active ingredients used.

28. WAIVER OF SUBROGATION

(a) The Customer agrees that the Customer's insurer or reinsurer waives any right of subrogation against The Company for any claim arising in any way under or in connection with the Conditions of Sale any Purchase Agreement.

(b) The Customer's insurance policies shall contain an endorsement containing an express waiver of any right of subrogation by the Customer's insurer or reinsurer against The Company.

(c) Clause 34 (a) of the Conditions of Sale is a full and complete bar to any claim or proceeding brought by the Customer or the Customer's insurer or reinsurer against The Company.

29. DISPUTE

(a) If a dispute arises under these Conditions of Sale, a party must issue a notice of dispute in writing to the other party providing particulars of the dispute within 10 Business Days of the party becoming aware of the facts that give rise to the dispute.

(b) Within 20 Business Days of the other party receiving the notice of dispute, senior representatives of each party with authority to resolve the dispute must meet at least once and in good faith, attempt to resolve the dispute.

(c) If the dispute has not been resolved pursuant to clause 27.2 of these Conditions of Sale, within 40 Business Days of the other party receiving the notice of dispute, the parties must refer the dispute to mediation. The parties will use all reasonable endeavours to jointly agree a mediator to conduct the mediation. If the parties are unable to jointly agree on a mediator to conduct the mediation, The Company, acting reasonably and in its sole discretion will unilaterally choose the mediator.

(d) If the dispute is not resolved pursuant to clause 27.3 of these Conditions of Sale, the parties may then refer the dispute to arbitration or litigation. The seat of any arbitration will be Brisbane, Queensland.

(e) Failure to strictly comply with this clause 27 will be a bar to either party commencing proceedings in respect of a dispute under these Conditions of Sale, except where a party seeks urgent injunctive relief.

30. ASSIGNMENT

The Conditions and any Contract may not be assigned by the Purchaser without the prior written consent of the Company, which must not be unreasonably withheld.

31. VARIATION AND SEVERANCE

(a) The Company is entitled to vary the Conditions or Credit Terms at any time by giving the Purchaser written notice. If the Contract is a Consumer Contract or a Small Business Contract, then the Purchaser may consider the variation and, if not acceptable, may elect not to proceed with the purchase of Goods or Services ordered before the date of the variation, but which are intended to be subject to the variation. If the Contract is not a Consumer Contract or a Small Business Contract, the Purchaser agrees that Goods delivered and Services performed and/or ordered after the date of a notice of variation will be subject to the variation and acceptance of the Goods or Services or the placing of the order will be deemed to be an acceptance of such varied terms and conditions.

(b) If any of the terms and conditions in the Conditions are invalid or unenforceable in any jurisdiction, they are, if possible, to be read down so as to be valid and enforceable. The read down provision will only apply in the relevant jurisdiction. If the provision cannot be read down, and it can be severed to the extent of the invalidity or unenforceability, it is to be severed. The rest of the provisions, and the validity and enforceability of the affected provision in any other jurisdiction, will not be affected.

32. NEW SOUTH WALES LAW

Each Contract is governed by the laws of New South Wales. The Purchaser and the Company irrevocably submit to the exclusive jurisdiction of the New South Wales courts and Federal courts sitting in New South Wales.

33. ANTI – CORRUPTION

(a) The Purchaser agrees to comply with the Anti-Corruption Law and must not commit any act or omission which causes or would cause it or the Company to breach, or commit an offence under, any Anti-Corruption Laws.

(b) The Purchaser warrants and represents that it has not been convicted of any offence, and has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence, under Anti-Corruption Laws.

(c) The Purchaser must, to the extent permitted by law, promptly notify the Company in writing if it becomes aware at any time during the term of any Contract that any of the representations or warranties in clause 23 (b) are, or might reasonably be expected to be, no longer correct.

34. MODERN SLAVERY

(a) The Purchaser agrees to comply with the Modern Slavery Act 2018 and must not commit any act or omission which causes or would cause it or the Company to breach, or commit an offence under any Modern Slavery laws.

(b) The Purchaser warrants and represents that it addresses modern slavery and ethical sourcing risks in its operations and supply chains that is appropriate and that it has not been convicted of any offence, and has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence, under any Modern Slavery laws.

(c) The Purchaser must, to the extent possible and permitted by law, promptly notify the Company in writing if it becomes aware at any time during the term of any Contract that any of the representations or warranties in clause 24 (b) are, or might reasonably be expected to be, no longer correct.

35. GENERAL

(a) If the Contract is not a Consumer Contract or a Small Business Contract, the Company will be entitled to set off against any money owing to the Purchaser amounts owed to the Company by the Purchaser on any account whatsoever.

(b) The failure of the Company to exercise a right or remedy, or any delay by the Company in exercising a right or remedy, or the exercise by the Company of only part of a right or remedy, or the granting of any indulgence by the Company in favour of the Purchaser does not:

- (i) affect the Company's rights against the Purchaser;
- (ii) constitute a waiver of any term or condition; or
- (iii) prohibit the Company from exercising that right or remedy in relation to that breach or any other breach.

(c) A waiver of a breach of a term or condition does not constitute a waiver of another breach of the same term or any other term.

(d) The application of the United Nations Convention on Contracts for the International Sale of Goods (known as the Vienna Sales Convention 1980) is excluded.