



- 1. Definitions** The following words where the context so permits shall have the following meaning:
"Purchase Order" means the Purchase Order and all attachments, exhibits and documents referenced herein and all terms and conditions hereof together with any changes issued by way of variation;
"Goods" means all and any materials, articles, items, merchandise, equipment, machinery, plant, stores, services, patterns, templates, work and the like required to be furnished or performed by the Supplier under the Purchase Order detailed herein;
"GST" has the meaning of given in the GST Act.
"GST Act" means a New Tax System (Goods and Services Tax) Act 1999 (Cth).
"Purchaser" means Yara Pilbara Fertilisers Pty Ltd, Yara Pilbara Nitrates Pty Ltd, Yara Pilbara Services Pty Ltd or Karratha TAN Pte Ltd or any of their Related Bodies Corporate (as applicable) and it's permitted assigns, successors or agents that may exist from time to time;
"Related Bodies Corporate" has the same meaning as that term is defined in the Corporations Act 2001 (Cth).
"Services" shall be construed to mean "Goods", the terms used interchangeably but shall also be deemed to mean the provision of a personal exertion service being labour whether in the form of manual, trades or professional.
"Supplier" means the vendor; these words used interchangeably and the person, firm or corporation to whom the Purchase Order is issued;
"Tax Invoice" has the same meaning as in the GST Act.
- 2. Precedence** It is agreed that the order of precedence of documents shall be: Purchase Order, any special conditions attached herewith, drawings and specifications. In the event of any ambiguity within any one document the Supplier shall notify the Purchaser who shall direct the Supplier as to the interpretation to be followed in supplying the Goods and/or carrying out the services or work.
- 3. Contract** The Purchase Order when duly signed and bearing an order number, is the only form which will be recognised by the Purchaser as authority for charging Goods and/or Services to its account. The Purchaser will be bound only by the written order appearing on the face of this document or a document in identical form, signed by an employee or agent duly authorised by the Purchaser. This Purchase Order together with all documents attached hereto or incorporated herein by reference, constitutes the entire agreement applicable to the Goods and may not be modified except by written variation. The Purchaser does not and will not accept any counter offer to this Purchase Order. The Purchase Order constitutes an offer to purchase and **not** an acceptance to any offer to sell Goods which may be accepted only in accordance with its terms and conditions. The commencement of any work or the supply of any Goods by the Supplier shall be deemed as acceptance of these terms and conditions and a contract shall be formed only on the terms and conditions set forth in the Purchase Order.
- 4. Variations to Contract** Variations of any description shall be effected in writing by the Purchaser and all such variations shall be subject to the terms and conditions of this Purchase Order. All claims for extra costs due to variations shall not be recognised unless duly agreed to in writing by the Purchaser prior to delivery, manufacture or provision of the service.
- 5. Applicable Law** This Purchase Order and the rights and obligations of the parties hereto shall be construed in accordance with and be governed by the laws of Western Australia. The parties hereto hereby agree that any legal actions or proceedings in respect to its obligations herein shall be brought in the State of Western Australia and shall submit to such exclusive jurisdiction of the Courts of Western Australia.
- 6. Price(s)** The price(s) payable by the Purchaser for the Goods shall be those stated in the Purchase Order and shall remain firm and fixed, not subject to rise and fall except where specifically detailed therein. The price(s) payable shall be deemed to include for packing and cartage unless otherwise specified therein.
- 7. GST** The Supplier may increase the Price payable by the Purchaser by an amount equivalent to the GST payable by the Supplier in relation to the Goods and Services provided by the Supplier under this Contract provided that the Supplier has taken all reasonable steps to ensure that the amount of GST payable is minimised (taking into account the abolition of existing taxes on or after the date of the GST) and that the ability of the Purchaser to claim input tax credits is not impeded by the action or inaction of the Supplier. The Supplier when claiming the GST shall state in its invoice the GST payable and if requested a calculation of the GST claimed and documentation evidencing such calculation.
- 8. Invoices** The Supplier must submit a valid Tax Invoice (as defined in the GST Act) to the appropriate Purchaser's entity within 30 days of delivery of the Goods or performance of the Services, by email to e-invoice@yara.com.. Tax invoices must contain the Purchase Order number and sufficient information for the Purchaser to determine if the Goods and Services have been provided in accordance with the Purchase Order and these terms.
- 9. Payments** Unless otherwise specified herein, payments shall become due and payable on the last day following the end of month from receipt of a duly substantiated invoice and after all requirements of the Purchase Order have been completed to the Purchaser's satisfaction including the provision of all data, documentation and drawings as specified. Unless otherwise detailed herein an invoice shall only be submitted by the Supplier to the Purchaser following delivery and acceptance of all Goods and/or Services by the Purchaser which will be in the form of a delivery or service docket which has been signed by the Purchaser's representative.
- 10. Delivery Terms** All delivery terms used in the Purchase Order and all deliveries made are to be in accordance with Incoterms 2000 and any subsequent addenda thereto, prior to the date of the Purchase Order, unless expressly modified by the terms of the Purchase Order. The Supplier shall, where possible provide not less than twenty four (24) hours' notice of an expected delivery.
- 11. Time** The time for delivery specified in the Purchase Order is of the essence. If at any time the Purchaser believes that the Supplier will not be able to deliver the Goods in accordance with the specified time(s) of delivery outlined in the Purchase Order, the Supplier will be required to show cause why the Purchase Order should not be cancelled. The Purchaser if it deems it necessary may without prejudice to any other rights which it may have, cancel the Purchase Order and make such other arrangements as the Purchaser may consider necessary or desirable in the circumstances. Any additional expenditure incurred by the Purchaser in connection therewith shall be reimbursable by the Supplier upon demand.
- 12. Transport and Documents** The Supplier must, at its own cost, properly pack and protect all Goods to ensure safe delivery and in accordance with industry best practice. The Supplier must provide all installation instructions, maintenance and operating manuals, engineering data, spare parts lists and other information as reasonably required for the installation, operation and maintenance of the goods at the time of delivery or completion of any Services unless otherwise agreed.
- 13. Warranty** Unless otherwise specified herein the Supplier warrants that the Goods supplied shall be of merchantable quality, fit for the purpose intended, free of defects in materials, workmanship and design and compliant with any laws, regulations, licences, permits or approvals. Where the Purchaser has supplied drawings or specifications the Supplier warrants that the Goods are manufactured and supplied in strict conformity with such drawings and specifications. The Purchaser warrants that the Goods are and will remain fit for the purpose for which they were supplied for a period of twenty four (24) months after their first use for commercial purposes.
- 14. Non-compliant Goods** If, within the twenty four (24) months referred to in clause 13, the Goods are found to be defective or not fit for the purposes intended the Supplier must immediately replace or repair the Goods at its own cost upon receiving notice from the Purchaser. The twenty four (24) months will likewise apply to any part of the Goods which has been replaced or repaired in accordance with this clause 14.
- 15. Liquidated Damages** Should the Supplier fail to deliver the Goods by the time(s) specified for delivery, or any extension thereof, the Supplier shall pay to the Purchaser by way of liquidated damages and not as a penalty, the amount of one (1) per cent of the Purchase Order value for every week or part thereof, but not exceeding five (5) per cent of the total value of the Purchase Order, until such Goods are delivered as specified herein. Such amount or amounts may be deducted from any money payable to the Supplier under this Purchase Order or any other Purchase Order(s) that the Purchaser may have placed with the Supplier.
- 16. Cancellation** The Purchaser may at its option cancel any unshipped Goods and/or Services without further obligation save to make payment for Goods shipped and/or Services performed prior to cancellation whether or not those Goods and/or Services constitute the Supplier's standard stock merchandise and/or service. If this Purchase Order covers Goods and/or Services to the Purchaser's specification, upon receipt of notice of cancellation the Supplier shall cease manufacture, supply or work in accordance with and to the extent specified in the notice and shall immediately do everything possible to mitigate any cost incurred by the Supplier prior to the date the notice of cancellation was received. Provided the Supplier is not in default the Purchaser shall pay to the Supplier (a) the actual out-of-pocket expenses including any expense caused by the cancellation, as solely determined by the Purchaser, incurred by the Supplier prior to the date of the notice of cancellation and (b) five per cent (5%) of the foregoing cost in lieu of profit, provided however that the total cancellation payment does not exceed the total Purchase Order Price. Upon such payments title to and property in any material or incomplete Goods shall pass to the Purchaser.
- 17. Property in Goods** Where any part payment is made, the title to and property in the partly completed Goods and any materials and parts to be incorporated in the manufacture shall pass to the Purchaser and shall be appropriately marked as belonging to the Purchaser. In addition, it is a condition of this Purchase Order that the Goods are and will be delivered free of all charges, liens and encumbrances whatsoever. The risk however shall at all pertinent times remain with the Supplier until the Goods have passed on delivery to the location directed by the Purchaser and issue of receipt by the Purchaser or, where the Goods are to be installed or commissioned by the Supplier, on completion of installation or commissioning (whichever occurs last).
- 18. Patents, Trade Marks and Copyrights** The Supplier warrants that it has fully investigated the possible infringement or claim of infringement of any patent, trademark, trade secret or copyright and that no such infringement has or is likely to occur. The Supplier undertakes to indemnify the Purchaser against all costs, damages or losses suffered by it in respect of any claim made under any patent, trademark, trade secret or copyright. In the event any such claim prevents the Purchaser from enjoying use of the Goods supplied under the Purchase Order the Supplier shall take all reasonable steps at its expense to procure use of such rights and if unable to do so will modify, replace or remove the Goods and refund all monies paid in respect of the Goods including the costs and expenses for removal and reinstallation of alternative Goods.
- 19. Information** The Supplier must keep the terms of this Purchase Order confidential. The copyright and intellectual property rights in any information, documents and other materials given by the Purchaser to the Supplier under this Purchase Order remains the property of the Purchaser and is provided to the Supplier subject to the Supplier keeping such information, documents and material confidential, only using it for the purposes of this Purchase Order, and returning the information, documents and material (including any copies) to the Purchaser upon completion of this Purchase Order.
- 20. Inspection in Progress** The Supplier agrees that the Purchaser and its designated Agent shall have at all times the right of inspection of all Goods, parts and components used or to be used in the manufacture of the Goods at any premises. The Purchaser or designated Agent shall have the power to reject any Goods, part thereof and/or work performed or being performed that does not conform to the terms and conditions specified herein; whereupon the rejected Goods or work shall be redone at no additional cost to the Purchaser. Any such inspection will not relieve the Supplier of any obligation under this Purchase Order.
- 21. Inspection on Delivery** All Goods may be inspected by the Purchaser within a reasonable time after delivery to the location required by the Purchaser. If on inspection, any Goods are found to be unsatisfactory, defective, or inferior quality or workmanship or fail to meet any specifications or other requirements of this Purchase Order, the Purchaser may return the Goods to the Supplier at the Supplier's sole risk and expense. On return of such Goods, the Supplier shall reimburse the Purchaser for any amounts paid by the Purchaser on account of the returned Goods and any cost incurred by the Purchaser in connection with the delivery or return of such Goods.
- 22. Insolvency** The Purchaser may cancel this Purchase Order without payment or compensation to the Supplier if the Supplier becomes bankrupt, or makes any arrangements with its creditors or being a company is wound up or passes or purports to pass a resolution to enter into liquidation or if a Receiver or Receiver and Manager is appointed.
- 23. Purchasers Rights** Nothing contained herein shall in any way limit the rights of the Purchaser against the Supplier conferred otherwise than by the terms and conditions contained herein. In addition, without limiting the foregoing nothing contained herein shall in any way limit the rights of the Purchaser against the Supplier arising under statute, at law, or in equity.
- 24. Indemnity** The Supplier indemnifies the Purchaser from any loss of any nature whatsoever which the Purchaser or the Supplier may incur as a result of or in connection with the Supplier's performance, non-performance or purported performance of this Purchase Order.
- 25. Termination by Default** In the event of a breach by the Supplier of any of the terms of this Purchase Order, including the Supplier's warranties or the Supplier becoming insolvent, committing an act of bankruptcy, entering into liquidation or appointing an administrator, receiver or controller, the Purchaser may at its option and without prejudice to any of its other rights, cancel any undelivered Goods and shall have the right to terminate this Purchase Order in whole or in part, and the Purchaser may procure Goods similar to those specified in this Purchase Order. The Supplier shall be liable for any costs for such similar Goods in excess of the price(s) specified herein, provided however, that the Supplier shall continue the performance of this Purchase Order to the extent not terminated by the Purchaser. In addition, the Purchaser may exercise any other rights or remedies provided by law or under this Purchase Order for any such default or breach by the Supplier.
- 26. Insurance** The Supplier shall insure the Goods in their full replacement value against damage or destruction by usual and reasonable perils having regard to the nature of the Goods from commencement of the Contract, until delivery of the Goods to the Purchaser, unless otherwise agreed to in writing between the parties hereto.
- 27. Import Duties** The Supplier shall remain liable for payment in full of any and all duties and charges levied on all or any part of the Goods to be imported by the Supplier and such duties and charges shall be deemed to be included in the price(s).
- 28. Assignment and Sub-contracting** The Supplier shall not assign or Sub-contract the Purchase Order or any part thereof without first obtaining prior written approval from the Purchaser. Any such permitted assignment or Sub-contracting shall not relieve the Supplier of any of its obligations under the Purchase Order. The Purchaser retains the right to assign all or any portion of the Purchase Order to the Principal upon written notification to the Supplier.
- 29. Disputes** Any dispute arising between the Purchaser and Supplier regarding this Purchase Order must first be referred to arbitration in accordance with the Institute of Arbitrators and Mediators Australia Rules for the Conduct of Commercial Arbitrations before either of the parties seeks the intervention of any court of law for the resolution of a dispute.
- 30. Code of Conduct** The Supplier shall apply standards of business conduct in the conduct of its business which are consistent with Yara International ASA group's "Code of Conduct for Yara's Business Partners", a copy of which is available on the website http://www.yara.com/about/corporate_governance/ethics_program_and_conduct/index.aspx. Non-compliance by the Supplier of the terms of the Code of Conduct for Yara's Business Partners shall entitle the Purchaser to terminate the purchase order immediately without liability.