

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in the Purchase Order.

Background IP means the Contractor's Intellectual Property Rights that:

- (a) are in existence at the Purchase Order Date; or
- (b) come into existence after the Purchase Order Date otherwise than in connection with the Purchase Order.

Business Conduct Requirements is defined in clause 10(a).

Business Day means a day other than:

- (a) a Saturday, Sunday or public holiday in Perth, Western Australia; or
- (b) any other day that falls between 22 December in any year and 10 January in the following year (inclusive).

Code of Conduct means the "Code of Conduct for Yara's Business Partners" available on the website <https://www.yara.com/siteassets/ethics-and-compliance/policies/code-of-conduct-for-business-partners/code-of-conduct-for-yaras-business-partners---english.pdf>.

Company means the entity specified as such on the Purchase Order form.

Company Group means the Company and any joint venture participants to the extent they are involved either directly or indirectly in the subject matter of the Purchase Order, and their related body corporates (as defined in the *Corporations Act 2001* (Cth)).

Company Representative means the person (or persons) nominated by the Company from time to time to act for and on behalf of the Company in relation to the Purchase Order.

Company's Policies and Rules means the Company's policies, rules of conduct and operation procedures (as may be changed or updated from time to time) that are:

- (a) provided to the Contractor by the Company (including via PPMS); and
- (b) documented within the Code of Conduct.

Confidential Information means any information or data, in whatever form and whether received or generated before or after the Purchase Order Date, that relates to the Company Group or the Purchase Order, excluding information or data that Contractor can prove:

- (a) is in or enters the public domain other than through the Contractor's breach;
- (b) was provided to the Contractor by a person who was not under an obligation of confidence to the Company in relation to that information or data; or
- (c) the Contractor developed without relying on, referring to or incorporating any of the Confidential Information.

Consequential Loss means:

- (a) any loss of revenue, profit, anticipated profit, production, goodwill, contracts or business opportunity;
- (b) loss arising from business interruption; and
- (c) indirect, consequential or special losses, which are losses that, at the Purchase Order Date, the Parties contemplated as being the probable result of an event giving rise to the loss but that event is comprised of special circumstances that do not arise naturally according to the usual course of things.

Contractor means the entity specified as such on the Purchase Order form.

Contractor's Equipment is defined in clause 12.1(a).

Control means the ability to direct the affairs of another person, whether by virtue of the ownership of shares, contract or otherwise.

Defective Services means any part or aspect of the Services, or the results of the Services, that are not in conformity with the Contract, including any inferior quality or workmanship.

Defects Liability Period means the period of 12 months commencing on the Practical Completion Date for the relevant Services and may be extended in accordance with clause 17(g).

Deliverables means all materials, documents, goods, parts, equipment, hardware, software, inventions, information, data and

any other items created, written, designed, produced, prepared, developed or acquired by or on behalf of the Contractor that relate to the Services.

General Conditions means these general conditions of the Purchase Order.

Good Industry Practice means the practices, methods and acts engaged in or approved by a person which, in the conduct of its undertaking, exercises that degree of due diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced persons, and includes complying with the terms of the Contract.

Goods means any materials, supplies, consumables, parts, equipment or other things that the Contractor is required to supply to the Company as part of the Services.

GST has the meaning given in the GST Law.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hire Equipment means the equipment the Company hires from the Contractor under the Contract.

HSE means health, occupational and process safety, security, environment and cultural heritage.

HSE Legislation means all relevant HSE legislation and codes of practice, including the *Work Health and Safety Act 2020* (WA) and the *Mines Safety and Inspection Act 1994* (WA).

Intellectual Property Rights means all present or future rights conferred by law attaching to inventions, patents, designs, trademarks, copyright, technical know-how, moral rights and other results of intellectual activity, whether or not registrable or patentable, and includes:

- (a) rights in all applications to register these rights;
- (b) renewals and extensions of these rights; and
- (c) rights in the nature of these rights.

Party means the Contractor or the Company.

Parties means the Contractor and the Company.

Personal Data has the meaning given to 'personal information' in the *Privacy Act 1988* (Cth) and, to the extent applicable, also has the meaning given to 'personal data' in the General Data Protection Regulation (EU) 2016/679.

Personnel means:

- (a) in relation to the Company, any of its, or the Company Group's (to the extent they are involved either directly or indirectly in the subject matter of the Contract), directors, officers, employees, secondees, agency personnel, agents and representatives;
- (b) in relation to the Contractor, any of its directors, officers, employees, secondees, Subcontractors, Subcontractor's Personnel, agency personnel, agents and representatives involved either directly or indirectly in the provision of the Services or the Contract; and
- (c) in relation to a Subcontractor, any of its directors, officers, employees, secondees, subcontractors, agency personnel, agents and representatives involved either directly or indirectly in the provision of the Services or the Contract.

PPMS means the Company's electronic procurement and payment management systems, as may be updated or changed from time to time, but which at the Purchase Order Date may include 'SAP', 'Avetta One Core', 'Contract Management System' (or 'CMS'), 'EcoVadis' and the Company's induction and training system that can be accessed on the website <https://www.yara.scodle.com/index.html>.

Practical Completion Date means the date on which the Contractor has completed a component of the Services to the Company's satisfaction and handed over those completed Services to the Company.

Project IP means all Intellectual Property Rights created, discovered or coming into existence as a result of, for the purpose of or in connection with the provision of the Services or the Contract (including in the Deliverables, in any Intellectual Property Rights the Contractor develops in providing the Services and in any Intellectual Property Rights in the technical materials the Company provides to the Contractor).

Purchase Order means these General Conditions (and any exception to these General Conditions issued as Special Conditions), the Purchase Order form, any scope of Services and any other exhibit or schedule the Company issues to the Contractor, and any other documents specifically incorporated by reference in those documents.

Purchase Order Date is defined in clause 2.1.

Purchase Order Sum means the total cost for the performance of the Services derived from the sum or prices, or calculated from the rates, specified in the Purchase Order.

Sanctioning Body means each of the United Nations Security Council, the European Union, the Office of Foreign Assets Control of the Department of Treasury of the United States of America, the Department of Foreign Affairs and Trade of the Australian Government, and any other authority that administers Sanctions in the Contractor's, or its ultimate holding company's, country of registration.

Sanctions means economic or financial sanctions, or trade embargoes and restrictions, a Sanctioning Body imposes from time to time.

Sanctions List means any list of specific, blocked or sanctioned persons a Sanctioning Body imposes from time to time in connection with Sanctions.

Services means all services to be carried out and provided by the Contractor in accordance with the Purchase Order, including:

- (a) all services set out in the Purchase Order;
- (b) all other services, functions, responsibilities and obligations that the Purchase Order requires the Contractor to perform;
- (c) all services, functions, responsibilities and obligations not specifically described in the Purchase Order, but which are incidental to the performance of, or otherwise necessary for the Contractor to provide, the Services under the Purchase Order; and
- (d) the supply or provision of any Goods or hire equipment, where applicable.

Site means any site under the control or management of the Company or member of the Company Group and may include:

- (a) the anhydrous ammonia production facility, ammonia export pipeline and loading facilities located at Lot 564, Village Road, Burrup Peninsula; and
- (b) the technical ammonium nitrate facility located at Lot 3017, Village Road, Burrup Peninsula.

Subcontractor means any person the Contractor engages to perform any portion of the Services under the Purchase Order on behalf of the Contractor, and includes a trade contractor, consultant, supplier, vendor or a subcontractor of any tier.

Taxes means any present and future sales, use, personal, property, real property, value added, goods and services, GST, turnover, stamp, documentary, interest equalisation, business, occupation, excise, income, corporation, profits, gains, gross receipts, withholding or other taxes, fees, imposts, levies, duties or other charges of any nature whatsoever or whensoever imposed (other than taxes on the Company's net income) by any government, governmental, semi-governmental or other relevant authority, together with any penalties, fines or interest thereon, that are imposed, levied, assessed or otherwise payable.

Variation Proposal is defined in clause 14(b).

Variation Request is defined in clause 14(a).

Wilful Misconduct means any act or omission that was done or omitted to be done with reckless or utter disregard for its foreseeable and harmful consequences.

1.2 Interpretation

- (a) In the Purchase Order, unless a contrary intention appears:
 - (i) a reference to legislation or a legislative provision includes any legislation or legislative provision that amends, re-enacts or replaces it, and includes any subordinate legislation issued under it;
 - (ii) words indicating the singular includes the plural and vice versa;
 - (iii) words indicating one gender includes all genders;

- (iv) if a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning;
 - (v) a reference to "including", "such as", "comprising" and other similar words are deemed to be completed by the expression "but not limited to";
 - (vi) a Party includes a successor in title, permitted substitute or a permitted assign of that Party;
 - (vii) a reference to "person" includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (viii) performance of an obligation of any kind by the Contractor includes performance by the Contractor's Personnel where the Purchase Order permits or the context requires;
 - (ix) a reference to a date or time is to Australian Western Standard Time;
 - (x) if a period of time is specified to begin on a specified day, it is to be calculated exclusive of that day; and
 - (xi) a reference to "\$" or dollar is a reference to Australian currency.
- (b) Headings are inserted for convenience and do not affect interpretation of the Purchase Order.
 - (c) No provision of the Purchase Order will be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of the Purchase Order or that provision.
 - (d) Unless expressly stated otherwise in the Purchase Order, where the Purchase Order, expressly or impliedly, allows or confers on the Company (or its Personnel) a discretion or right to determine an act, matter or thing of any kind, or as to how it may be done, then the Company (or its Personnel) may exercise or perform that discretion or right in its sole discretion and is not required to give reasons when giving or withholding any consent or approval or exercising any other right.
 - (e) Unless expressly stated otherwise in the Purchase Order, if there is any inconsistency or ambiguity between the documents comprising the Purchase Order, then the documents will prevail in the order in which they are listed in the above definition of Purchase Order.

2 CONTRACT AND STATUS OF CONTRACTOR

2.1 Contract

A contract is formed when the Company issues the Purchase Order to the Contractor and the Contractor confirms acceptance or commences the Services (**Purchase Order Date**), regardless of whether or not the Purchase Order has been signed by either Party.

2.2 Independent contractor

The Contractor acknowledges and agrees that it:

- (a) is an independent contractor and not the Company's agent, employee, partner or joint venturer;
- (b) has no authority to incur, and must not incur, any obligation on behalf of the Company except with the Company's express written instruction; and
- (c) must not engage in any negotiations or discussions with any regulatory authority on behalf of the Company except with the Company's express written instruction.

2.3 Company Representative

- (a) The Company Representative has authority to act on behalf of the Company for all purposes in connection with the Services.
- (b) The Company Representative may nominate delegates to perform specific tasks.
- (c) The Contractor must comply with the Company Representative's (or the delegate's) directions, whether oral or in writing, provided that where an oral direction is given the Company Representative (or the delegate) will as soon as practicable confirm the direction in writing.
- (d) The Contractor must not accept any direction from any person other than the Company Representative or the delegate.

- (e) A direction given by the Company Representative (or the delegate) does not relieve or limit the Contractor's obligations under the Purchase Order.

2.4 No exclusivity

The Contractor acknowledges and agrees that:

- (a) the Purchase Order does not confer upon the Contractor any exclusivity in respect of the Services;
- (b) the Company is not under any obligation to request any of the Services from the Contractor except as agreed under the Purchase Order; and
- (c) the Company has not made any representation that it will purchase any minimum level of the Services.

3 PERFORMANCE OF THE SERVICES

3.1 Standard of performance

The Contractor must perform the Services:

- (a) in strict compliance and conformity with the Purchase Order;
- (b) in accordance with Good Industry Practice and the Company's Policies and Rules;
- (c) using workmanship that is fit for its purpose; and
- (d) using or supplying Goods that are of merchantable quality, fit for their purpose, and are maintained in accordance with any applicable manufacturer's recommendations.

3.2 Warranties

The Contractor represents and warrants that:

- (a) the Services will be:
 - (i) performed in accordance with Good Industry Practice and the Purchase Order requirements;
 - (ii) fit for the purpose for which they are supplied; and
 - (iii) provided in an efficient manner and completed within any time frames set out in the Purchase Order or as the Company otherwise directs the Contractor from time to time;
- (b) the Services and the results of the Services will be in conformity with the Purchase Order, including during any Defects Liability Period;
- (c) it is properly financed, and has the necessary skills, resources and experience (including appropriately qualified and trained Personnel), to perform its obligations under the Purchase Order;
- (d) it holds any authorisations that are necessary or desirable to perform the Services, and it is complying with any conditions to which any of these authorisations is subject;
- (e) it has fully informed itself of the Company's requirements for the Services and of the Site conditions that could affect the performance of the Services;
- (f) it has entered into the Purchase Order in reliance on its own skill, judgement and expertise;
- (g) it will protect the Company's Confidential Information and Project IP;
- (h) it will not create any encumbrance, lien, mortgage, charge or other security interest over the Company's property or the Goods;
- (i) where the Contractor supplies Goods as part of the Services:
 - (i) the Goods will be new, of merchantable quality and fit for their usual purpose and any purpose that the Company may from time to time inform the Contractor;
 - (ii) the Goods will comply with the description of the Goods and any applicable Australian standards, and satisfy any performance criteria, specifications and certification requirements;
 - (iii) the Goods and any packaging will be free of asbestos; and
 - (iv) the Contractor will obtain, at its cost, all usual manufacturer's warranties and any warranties the Company specifically requests, and that those warranties will transfer to the Company with title in the Goods;
- (j) it is not entering into the Purchase Order as trustee of any trust or settlement; and

- (k) it is not named, or directly or indirectly Controlled by any person, on any Sanctions List or engage any Personnel named on any Sanctions List.

3.3 Acknowledgment by Contractor

The Contractor acknowledges that the Company has entered into the Purchase Order relying on the skill, care, expertise, experience and ability of the Contractor to provide the Services.

4 CONTRACTOR'S PERSONNEL

4.1 Workforce

- (a) The Contractor must supply all Personnel necessary for the proper and due performance of the Services and its obligations under the Purchase Order.
- (b) The Contractor must ensure that all the Contractor's Personnel:
 - (i) are suitably qualified, competent, experienced and fit for the Services to be undertaken;
 - (ii) perform the Services in compliance with the Purchase Order, the Company's requirements and applicable laws; and
 - (iii) are legally employed in accordance with applicable laws, including having the required permission to work in Australia under the *Migration Act 1958* (Cth), if applicable.
- (c) In support of the Contractor's obligations under clause 4.1(b), the Contractor must, at its sole cost, enter information and data relating to the Contractor's Personnel as required by the Company, including through the Company's PPMS.
- (d) No Contractor's Personnel will be permitted to access the Site without satisfying the Company's qualification and competency requirements.

4.2 Subcontracting

- (a) The Contractor may only engage Subcontractors to assist in the provision of the Services with the Company's prior written approval.
- (b) The Contractor must ensure that all Subcontractors:
 - (i) are solvent;
 - (ii) are sufficiently experienced, qualified and equipped to provide the Services to be performed under the subcontract;
 - (iii) maintain sufficient insurance as required under the Purchase Order; and
 - (iv) comply with the requirements of clause 10.
- (c) The acts and omissions of each Subcontractor will be deemed to be the acts and omissions of the Contractor. As such, the Contractor is liable for the acts and omissions of any Subcontractor as if they were the Contractor's acts or omissions.
- (d) The Contractor must enter into a written subcontract with Subcontractors and make all the terms of the Purchase Order (as far as applicable) the terms of any subcontract.
- (e) To avoid doubt, the Company's approval of any Subcontractor does not create any contractual relationship between the Company and the Subcontractor.

4.3 Contractor responsible for its Personnel

Unless expressly stated otherwise in the Purchase Order, the Contractor is responsible for all remuneration and benefits for its Personnel at its sole cost, including any:

- (a) salary, wages, allowances, bonus and incentive payments, superannuation, pensions, annual and long service leave, annual leave loading, sick or compassionate leave, paternity leave, public holidays, site and project allowances, inclement weather payments, overtime and penalty rates, medical benefits, severance payments in lieu of notice and termination payments;
- (b) insurances (including workers' compensation premiums or levies);
- (c) group tax, payroll tax, fringe benefits tax, superannuation guarantee charges and any other imposts or levies imposed by law;
- (d) contributions relating to national or local industrial agreements;
- (e) accommodation, meals and other living expenses;

- (f) transportation (and, to avoid doubt, the Contractor will not be reimbursed for its Personnel's travel time during mobilisation or demobilisation, or to and from the Site, or for expenses incurred during travel to and from an airport (including taxis, car storage fees or meals));
- (g) personal protective and safety equipment, including protective and weatherproof clothing and protective footwear, which are to be replaced as necessary during the period of the Purchase Order;
- (h) training and training levies, including the Site's safety induction courses, emergency procedure testing and other safety or Services specific training (and, to avoid doubt, the Contractor will not be reimbursed for its Personnel's time taken to undertake training);
- (i) recruitment costs;
- (j) cost of qualifications, licences or certifications required for the Services;
- (k) medical fitness examinations and certificates; and
- (l) medical attention, support and administrative services.

4.4 Removal of Contractor's Personnel

- (a) The Company may, at any time, request the Contractor to remove any of the Contractor's Personnel from providing any part of the Services if such person:
 - (i) does not fulfil the criteria set out in clause 4.1(b);
 - (ii) infringes any safety policies, procedures or legislation;
 - (iii) conducts themselves in an improper manner; or
 - (iv) is otherwise unsuitable to perform the Services.
- (b) The Contractor must promptly replace the person with a person of suitable skill, experience and qualifications at the Contractor's sole cost and so as to avoid any interruption to the performance of the Services.

5 INFORMATION RELATING TO THE SERVICES

5.1 Consultation with the Company

- (a) The Contractor must:
 - (i) consult regularly with the Company during the performance of the Services; and
 - (ii) attend all meetings and provide written reports required by the Purchase Order or as the Company Representative directs from time to time.
- (b) The Company gives no warranty of the accuracy, sufficiency or otherwise in relation to any information or data provided to the Contractor.
- (c) The Contractor acknowledges and agrees that the Company does not, by carrying out any review or inspection, witnessing any test, commenting on or approving any Services or Deliverables, or giving directions, assume any responsibility for ensuring that the Services comply with the Purchase Order requirements or waive any such requirements.

5.2 Personal Data

- (a) The Contractor must comply with, and ensure that the Contractor's Personnel comply with, applicable data privacy laws, including information security requirements, relating to its performance under the Purchase Order.
- (b) The Contractor must ensure that all the Contractor's Personnel have given specific written consent to disclose their Personal Data to the Company, and to the Company's contractors or agents, to the extent required to enable the Company to carry out its business, and the Contractor to perform the Services, pursuant to the Company's "Yara Data Privacy Policy for Customer, Supplier and Business Partner Data" available on the website <https://www.yara.com.au/siteassets/privacy-and-legal/yara-data-privacy-policy-for-customer-supplier-and-business-partner-data.pdf>. The Company's business purposes include the use of PPMS for supply chain risk management, which may involve the PPMS provider collecting and possessing the Contractor's Personnel's Personal Data for the purposes of recording the Personnel's competencies and training, and the transfer of that information overseas.
- (c) The Contractor represents and warrants that:
 - (i) with regard to Personal Data provided to the Company, all requirements under applicable data protection laws are

fulfilled, allowing the Company to process the Personal Data; and

- (ii) it will cooperate with the Company to ensure there is an adequate legal basis for the transfer of Personal Data to the Company.
- (d) If the Contractor becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data, it must notify the Company without undue delay and provide assistance to the Company to ensure compliance with applicable data protection laws.
- (e) If the Contractor acts as a processor of the Company's Personal Data on the Company's behalf, the Contractor must enter into the Company's data processor agreement.

5.3 PPMS

If the Company notifies the Contractor that PPMS is to be used for the Company's procurement and payment management, then the Contractor must undertake all action required to enable it to use that PPMS and comply with the PPMS provider's terms regarding the use of that PPMS, including consenting to the PPMS provider collecting and possessing the Contractor's (and its Personnel's) information and data, and the transfer of that information and data overseas.

6 SITE ACCESS

- (a) The Contractor must comply, and must ensure the Contractor's Personnel comply, with the Company's Site conditions, requirements, and procedures.
- (b) Without limiting clause 6(a), the Contractor must ensure that the Contractor's Personnel:
 - (i) comply with the Company's "Site Access Procedure", which the Company may update from time to time upon written notice to the Contractor;
 - (ii) complete all relevant Site inductions; and
 - (iii) have all personal protective equipment required to undertake the Services.
- (c) The Contractor must perform the Services in a manner that minimises interference, disruption or delay to the works performed by the Company or other contractors at the Site.

7 HSE

7.1 General

- (a) The Contractor must, in performing any Services on the Site:
 - (i) be aware of and comply with, and ensure that the Contractor's Personnel are aware of and comply with:
 - (A) all applicable HSE Legislation;
 - (B) the Company's Policies and Rules in relation to HSE; and
 - (C) the Company's directions given in relation to HSE;
 - (ii) take all necessary measures and conduct all activities under the Purchase Order in a manner that will prevent harm to the health, safety and security of any person, harm to the environment and damage to any property;
 - (iii) prior to the commencement of any Services, carry out a risk assessment relevant to those Services and inform the Company Representative of any potential hazards and risks associated with the performance of those Services; and
 - (iv) assist and comply with any HSE incident investigation that the Company conducts, and with any directions of the Company appointed investigator, including providing any documents or other evidentiary requirements.
- (b) If the Contractor becomes aware of any unsafe condition or activity, the Contractor must immediately notify the Company and take any steps as are necessary, including complying with any Company directions. The Contractor must bear all costs, and the consequences of any delay or disruption, caused by any suspension of work or any required modification of the Contractor's method of work in order to work safely.

7.2 Hazardous materials

- (a) The Contractor must not deliver any chemical elements or compounds or hazardous substances to the Site without first

providing the Company with current safety data sheets (SDS) and obtaining the Company's prior written approval.

- (b) The Contractor must strictly comply with any applicable laws and the Company's directions regarding the Contractor's use and disposal of any hazardous materials on the Site.
- (c) The Contractor must ensure that no asbestiform or fibrous materials are used in the performance of the Services (including in the manufacture of the Goods and in any Contractor's Equipment, Hire Equipment, consumables or packaging).
- (d) The Contractor acknowledges and agrees that soils, gravels, rock or other materials occurring naturally in the Pilbara may contain traces of asbestiform and other fibrous minerals.
- (e) The Contractor must, before commencing any work on the Site that will disturb the existing ground surface or involves the handling of naturally occurring materials, establish and implement safe work procedures as required under the Company's "Occupational Health and Safety Management Plan".

7.3 Energy management

The Contractor must use all reasonable efforts to perform the Services in a cost effective and energy efficient manner so as to reduce water and energy usage, and minimise waste and carbon emissions, to the fullest extent possible. Such efforts should include meeting the minimum requirements set out in the International Organization for Standardization's ISO 50001:2018.

8 PROTECTION OF ABORIGINAL HERITAGE

In performing the Services at the Site, the Contractor must, and must ensure that its Personnel:

- (a) comply with all applicable laws relating to Aboriginal sites and Aboriginal rights, entitlements and interests; and
- (b) not enter Aboriginal sites, or disturb or remove anything from those sites or their vicinity, except with the Company's prior written approval.

9 INDUSTRIAL, EMPLOYEE AND SUBCONTRACTOR RELATIONS

- (a) The Contractor is responsible for conducting its industrial and employee relations with its Personnel in a manner conducive to preventing any delay or disruption in the provision of the Services.
- (b) The Contractor must, and ensure that its Subcontractors must, ensure that the rates of pay and conditions of engagement for all its Personnel are always observed in full.
- (c) The Contractor must keep the Company fully and promptly informed of any potential or actual industrial and employee relations issues and Personnel grievances that affect, or are likely to affect, the performance of the Services.
- (d) The Contractor must consult the Company Representative before taking any action that may adversely affect its industrial and employee relations with its Personnel that are providing the Services. The Contractor must consider and give effect to any reasonable request of the Company Representative arising from the consultations.

10 STANDARDS OF BUSINESS CONDUCT

- (a) The Contractor must:
 - (i) comply with the Code of Conduct and all applicable laws relating to human rights, bribery, corruption, money laundering, anti-terrorism, and accounting and financial controls (**Business Conduct Requirements**); and
 - (ii) have and maintain its own policies and procedures (including training) to ensure its Personnel are aware of, and comply with, the Business Conduct Requirements.
- (b) The Contractor represents and warrants that:
 - (i) it has not given, offered, promised or authorised any type of bribe or facilitation payment to any third party in connection with the Purchase Order; and
 - (ii) except as otherwise disclosed in writing to the Company, no public official or foreign public official (as both are defined in the *Criminal Code Act 1995* (Cth)) or any close relatives of its directors:

(A) own any Controlling interest in the Contractor (either directly or indirectly); or

(B) has a right to any benefit from the Parties entering into the Purchase Order.

(c) The Contractor must promptly report any suspected infringements of this clause 10 to the Company.

(d) The Company may audit the Contractor's compliance with this clause 10 at any time. The Contractor must provide the Company with all reasonable assistance to enable the Company to monitor and audit the Contractor's compliance.

11 GOODS

11.1 Delivery

- (a) The Contractor must:
 - (i) deliver the Goods on the dates and to the places specified in the Purchase Order. If no dates have been specified, then the Contractor must deliver the Goods within a reasonable time according to Good Industry Practice; and
 - (ii) provide all the proper certification, and relevant information and data, relating to the Goods prior to or with delivery of the Goods.
- (b) The Company will not be deemed to have accepted the Goods:
 - (i) until it has had a reasonable time to inspect the Goods after they have been delivered; and
 - (ii) by signing any delivery docket or acknowledgement, notwithstanding any terms and conditions appearing on any such document.
- (c) The Company may accept or refuse, at its discretion, ownership of any Goods that may not be in conformity with the Purchase Order. The Company may, without limiting any other right or remedy available to it, return those Goods to the Contractor or direct the Contractor to remove or replace those Goods, in which case title and risk in those Goods do not pass to the Company and the Contractor must pay to the Company:
 - (i) any amounts the Company has paid for the returned Goods that are not replaced by the Contractor; and
 - (ii) any costs incurred or losses suffered by the Company in connection with those returned Goods.

11.2 Alternative Goods

- (a) If the specified Goods are unavailable, or there is a cost, time or quality benefit in using alternative goods, the Contractor must submit details of alternative goods for the Company's consideration.
- (b) Substitution of Goods must only be made with the Company's prior approval. The Company may reject unauthorised substituted goods, in which case the Contractor will be liable for:
 - (i) all costs associated with acquiring and returning the unapproved substituted goods; and
 - (ii) any costs incurred or losses suffered by the Company in connection with those unapproved substituted goods.

11.3 Title and risk

Subject to clauses 11.1(c) and 17, where the Contractor provides Goods as part of the Services:

- (a) the property and title in the Goods or part thereof will be vested in the Company on the earlier of:
 - (i) the Company paying for those Goods; and
 - (ii) the Company's receipt of those Goods; and
- (b) risk in the Goods or part thereof remains with Contractor until the Company's acceptance of those Goods.

12 EQUIPMENT

12.1 Contractor's Equipment

- (a) Unless expressly stated otherwise in the Purchase Order, the Contractor must supply all items required to prepare and perform the Services in accordance with the Purchase Order, including any vehicles, plant, equipment, tools, hardware, software, buildings, structures and materials, regardless whether such items are owned, supplied, licenced, leased, hired or chartered by the Contractor or its Subcontractors (collectively, **Contractor's Equipment**).

- (b) Unless expressly stated otherwise in the Purchase Order, the Contractor is responsible for:
 - (i) the care, maintenance, repair, replacement, electrical safety tagging, storage, protection and security;
 - (ii) the mobilisation and demobilisation; and
 - (iii) all operating costs, of, and relating to, the Contractor's Equipment at its sole cost.
- (c) The Company is not liable for any Contractor's Equipment that is lost, missing, damaged or stolen from the Site.

12.2 Hire Equipment

- (a) The Contractor must deliver the Hire Equipment on the dates and to the Site specified in the Purchase Order (including any Purchase Order).
- (b) Upon the Company's request, the Contractor must allow the Company to, prior to delivery of the Hire Equipment:
 - (i) inspect any maintenance and servicing records, logbooks or other documents evidencing the condition of the Hire Equipment; and
 - (ii) conduct a safety inspection of the Hire Equipment.
- (c) If the Contractor is required to operate the Hire Equipment, then it must do so:
 - (i) in a good and workmanlike manner;
 - (ii) at the times agreed with the Company; and
 - (iii) in accordance with the Company's conditions of access and any Company direction.
- (d) The Contractor must remove the Hire Equipment from the Site when notified by the Company.
- (e) If the Hire Equipment is damaged or rendered non-operational as a result of any cause, or is unable to be used in the performance of the Services because the Hire Equipment does not satisfy any Purchase Order requirement, then the Contractor must promptly replace or repair the Hire Equipment. If the Hire Equipment is to be repaired, then the Contractor must provide the Company with temporary replacement equipment that complies with the Purchase Order requirements.
- (f) For any period where the Hire Equipment is in the Company's sole care, custody and control, the Company will reimburse the Contractor its reasonable repair or replacement delivery costs relating to damaged Hire Equipment, except to the extent that:
 - (i) the Contractor caused the damage; or
 - (ii) the damage arises due to corrosion, unless otherwise expressly provided for in the Purchase Order,and the Company's reimbursement of these costs will be the Contractor's sole remedy against the Company for damaged Hire Equipment.

12.3 Import, export and transport

- (a) Unless expressly stated otherwise in the Purchase Order, the Contractor must, at its sole cost, arrange the transport, handling, export and import of the Contractor's Equipment, Hire Equipment, Goods and consumables between their point of origin and the Site or other applicable worksite.
- (b) In the case of imported Goods, the bills of lading must be consigned to the Contractor.
- (c) The Contractor must obtain all customs duty concessions it is entitled to obtain in respect to the Services, which concessions the Contractor must hold for the benefit of the Company.

12.4 Packing

- (a) The Contractor must, at its sole cost, properly and carefully pack and protect the Contractor's Equipment, Hire Equipment and Goods in accordance with best practices.
- (b) Packing lists must be:
 - (i) attached to each package in a sealed waterproof envelope mounted in a conspicuous but safe place where it can be seen but not accidentally removed; and
 - (ii) completed in detail, with each item clearly identified and showing the Purchase Order number.

12.5 Company's property

- (a) Any information, data, items and spare parts the Company provides to the Contractor to enable it to complete the Purchase Order remain the Company's property and must only be used for the purposes of fulfilling the Contractor's obligations under the Contract.
- (b) The Contractor is responsible and must compensate the Company for any loss of or damage to any of the Company's property caused by the Contractor's Personnel or its visitors.
- (c) The Contractor must not remove any of the Company's property from the Site without the Company Representative's prior written approval.

13 PROGRESS OF THE SERVICES

- (a) If, in the Company Representative's sole opinion:
 - (i) the Services are being performed slower than the Purchase Order requirements, the Contractor must take such action as is necessary to improve progress;
 - (ii) the Contractor's action or proposed action under clause 13(a)(i) is not satisfactory, the Company Representative may direct the Contractor to increase its workforce, the Contractor's Equipment, the number of shifts or to take any other reasonable action; and
 - (iii) the Contractor's action under clause 13(a)(ii) is not satisfactory, the Company may terminate the Purchase Order in whole or in part and clauses 24.4 to 24.5 will apply *mutatis mutandis*.
- (b) The Contractor is responsible for any additional costs it incurs under clause 13(a).
- (c) Without limiting clause 13(a), the Contractor must, as soon as practicable after becoming aware of a matter that is likely to change or delay the Services (including any late delivery of Goods), give written notice to the Company detailing the circumstances and likely extent of the change or delay, and any means by which the Contractor intends to remedy the change or delay.

14 VARIATION OF THE SERVICES

- (a) The Company may, at any time, request a variation to the Services (including to an existing Purchase Order) in accordance with this clause 14 (**Variation Request**).
- (b) If the Company requests a Variation Request, the Contractor must prepare and submit to the Company a variation proposal or quotation addressing the Variation Request (**Variation Proposal**), which must specify any:
 - (i) amendments to the Services;
 - (ii) proposed variation to the pricing or rates payable in respect of the Services;
 - (iii) proposed variation to the timing for completion of the Services; and
 - (iv) information the Company requests to support the Variation Proposal.
- (c) The Contractor must submit the Variation Proposal within seven days after the Company's request or within such other period as the Company may consider reasonable given the scope and size of the Variation Request.
- (d) If the Company approves a Variation Proposal, the Company will either issue a revised Purchase Order or sign the Variation Proposal. The Purchase Order will be deemed to incorporate the variation set out in the revised Purchase Order or the Variation Proposal with effect from the date on which the Company issues the revised Purchase Order or signed the Variation Proposal, as applicable.
- (e) If the Parties are unable to agree upon the pricing of the Variation Proposal, the Company may direct the Contractor to comply with the Variation Proposal, in which case the Contractor must comply while reserving its rights under clause 14(i), and the Company will pay the Contractor the Company's assessment of the value of the Variation Proposal based on:
 - (i) the rates and prices specified in the Purchase Order; or
 - (ii) if there are no applicable rates and prices in the Purchase Order, a reasonable value the Company determines.
- (f) The Company is not obligated to accept a Variation Proposal.

(g) The Contractor acknowledges and agrees that the Company's issue of a Variation Request that reduces or deletes part of the Services does not constitute a basis to allege that the Company has repudiated or breached the Purchase Order, no matter the extent or timing thereof.

(h) If the Contractor considers that any Services that it is directed to perform is a variation of the Services, but it has not received a Variation Request from the Company, then it may submit a variation request within seven days after receiving that direction. The Contractor's variation request must address those matters specified in clause 14(b). If the Company:

- (i) agrees with the Contractor's variation request, then clause 14(d) will apply *mutatis mutandis*; or
- (ii) does not agree that the direction is a variation, then the Contractor must comply with the Company's direction while reserving its rights under clause 14(i).

If the Contractor does not submit a variation request within the seven days, then the Contractor's right to submit a variation request is barred and such failure will constitute a waiver by the Contractor of its right under this clause 14(h).

(i) If the Contractor disputes the Company's assessment under clause 14(e) or 14(h), it may within 14 days after the assessment refer the dispute for determination in accordance with clause 25. If the Contractor does not refer the dispute for determination within 14 days, then the Company's assessment under clause 14(e) or 14(h) (as applicable) will be final and binding on the Contractor, and such failure to refer will constitute a waiver by the Contractor of its right under this clause 14(i).

(j) The Contractor must not vary the Services except in accordance with an approved Variation Proposal.

(k) The Company is not liable to the Contractor, and the Contractor is not entitled to any relief or remedy (including any claim for an adjustment to the Purchase Order Sum or time for performing the Services), in respect of any altered or additional Services unless or until the Contractor complies with the requirements of this clause 14.

15 SUSPENSION OF THE SERVICES

(a) The Company may, at any time and at its discretion, suspend the performance of all or any part of the Services for any period of time by giving the Contractor at least 24 hours written notice.

(b) The Contractor must comply with the Company's direction and promptly recommence the performance of the suspended Services when notified by the Company.

(c) If a suspension of the Services was directed by the Company solely as a consequence of its own breach of the Purchase Order or for its own benefit, then the Company will, as full compensation for such suspension, reimburse the Contractor in accordance with the standby rates set out in the Purchase Order or, if there are no applicable standby rates in the Purchase Order, a reasonable value the Company determines. To avoid doubt, the Contractor is not entitled to any compensation arising from a suspension that is a result of:

- (i) an act or omission of the Contractor or its Personnel; or
- (ii) the protection or safety of any person or property.

16 QUALITY ASSURANCE, EXAMINATION AND TESTING

16.1 Testing

(a) The Contractor must:

- (i) submit detailed inspection and test plans to the Company for all activities at least 14 days prior to the commencement of each activity, which must be approved by the Company prior to the commencement of each activity;
- (ii) carry out all inspection and testing of the Services, including component parts and work performed by Subcontractors, to ensure the Services comply with the Purchase Order;
- (iii) provide signed copies of all test reports, certified by a competent authority, to the Company within 24 hours of the test results being available; and
- (iv) submit to the Company within 14 days after the Practical Completion Date a manufacturer's data report which

collates all test reports under clause 16.1(a)(iii) and all technical data relevant to the Services.

(b) All costs associated with the Contractor conducting inspections and tests are deemed to be included in the Purchase Order Sum.

16.2 Inspection

(a) Subject only to providing reasonable notice, at any time during the performance of the Services the Company Representative will have the right to inspect, review, and witness tests of, the Services at any location in person or by videoconference.

(b) The Contractor must provide necessary support and assistance to facilitate the Company Representative's inspection, review, or witness the testing of, the Services.

(c) The Contractor must notify the Company Representative:

- (i) when any part of the Services has been completed and is ready for inspection, review or testing; and
- (ii) at least 14 days prior to the date that the Contractor expects that it will complete all the Services, to enable the Company to witness or conduct tests and inspections of the Services prior to the Contractor demobilising from the Site.

(d) If any tests, inspections or reviews show that any part of the Services have not been performed in accordance with the requirements of the Purchase Order, the Contractor, whether or not notified by the Company, must at its sole cost:

- (i) immediately rectify any non-compliance; and
- (ii) repeat the tests, inspections or reviews until they show that the non-compliance has been rectified.

17 DEFECTIVE SERVICES

(a) The Company will not be deemed to have accepted any part of the Services until it has had a reasonable time to inspect, review or test the results of the Services after they have been performed.

(b) Subject to clause 17(c), the Contractor must promptly rectify any Defective Services at its sole cost during the Purchase Order term, including completing and making good to the Company's satisfaction Defective Services to comply with the Purchase Order requirements prior to the Practical Completion Date.

(c) Without limiting clauses 11.1(c) and 16.2(c)(ii), if at any time before or during the Defects Liability Period the Company considers that any part of the Services to be Defective Services, it will notify the Contractor to rectify the Defective Services within the time specified in the notice, which rectification will be at the Contractor's sole cost (including any costs of dismantling and reinstallation, if applicable).

(d) If the Contractor fails to rectify the Defective Services within the time specified in the Company's notice under clause 17(c), the Company may rectify the Defective Services itself, or engage others to perform the rectification on its behalf, and the costs of doing so will be a debt owing from the Contractor to the Company.

(e) The Contractor will be liable for any damage to the Company's property that is caused directly or indirectly by the Defective Services or by the rectification of the Defective Services.

(f) If the Company decides to accept some Defective Services, this decision does not affect the Company's right to claim for any damage or loss it may suffer because of the Contractor's breach of warranty or failure to fulfil any of the Contractor's other obligations under the Purchase Order.

(g) Any Defective Services that are rectified under this clause 17 will be subject to a 12 month Defects Liability Period commencing on the date of rectification. If such Defective Services still contains defects, then this clause 17 applies *mutatis mutandis* until such time that there are no further defects or the Company accepts the Defective Services.

18 INVOICING AND PAYMENT

(a) The Contractor may submit an invoice to the Company after the end of each calendar month for any part of the Services the Contractor completes, and the Company accepts, during that month.

(b) The invoice must:

- (i) reference the Company name and the Purchase Order number;
 - (ii) set out particulars of the Services the Contractor has completed, the amount payable by the Company under the Purchase Order, and the method by which the amount was calculated. If the Purchase Order Sum is a lump sum, then this should include a progress statement detailing the percentage progress against each item comprising the lump sum, which has been countersigned by the Company Representative;
 - (iii) include the Contractor's Australian Business Number (ABN) and any applicable GST amount;
 - (iv) attach any supporting documents to substantiate the invoiced amount, including Personnel and Hire Equipment timesheets authorised by the Company Representative, delivery dockets signed by the Company's Personnel, and third party invoices where applicable; and
 - (v) be submitted by email to both e-invoice@yara.com and the Company Representative.
- (c) The Company may reject invoices that do not conform to clause 18(b) or invoices for Variation Proposals that the Company has not approved.
- (d) Invoices are payable 20 Business Days following the Company's receipt of the invoice, except where:
- (i) the Company exercises its right to deduct part of the Purchase Order Sum pursuant to clause 18(g) or 18(h); or
 - (ii) the Company disputes the invoice, in which case:
 - (iii) the Company will pay the unwithheld or undisputed part of the invoice (if any) within 20 Business Days after receipt of the invoice; and
 - (iv) the Company will provide a payment schedule within 15 Business Days after receipt of the invoice detailing the reasons why the amount being paid is less than the invoiced amount.
- (e) Upon receipt of the Company's payment schedule, the Contractor may:
- (i) submit a revised invoice for the unpaid amount taking into account the Company's reasons, and clause 18(d) will apply *mutatis mutandis*; or
 - (ii) seek resolution under clause 25.
- (f) The making of any payment to the Contractor will be deemed to be payment on account only.
- (g) The Company may deduct from any amount due to the Contractor under the Purchase Order any amounts the Company considers is due to the Company by the Contractor, including any amounts by way of damages.
- (h) If the Company is required by law to withhold or deduct any Taxes from any payment due to the Contractor, the Contractor authorises such withholding or deduction and agrees that payment to the appropriate government department of the amount withheld or deducted will constitute good and full payment by the Company to the Contractor of an equivalent amount.
- (i) The Company has the right to conduct an audit of the basis of the Contractor's charges using the Contractor's records, which the Contractor must make available to the Company upon request. If, as a result of any such audit, it is established that the relevant invoice is erroneous, the Contractor must promptly adjust such error and reimburse the Company.
- (j) Unless otherwise specified in the Purchase Order, any money payable under the Purchase Order is to be paid in Australian currency.

19 TAXES

19.1 General

- (a) All Taxes (other than GST) levied on or in relation to the Services will be to the Contractor's account and are deemed to be included in the Purchase Order Sum. The Contractor will be responsible for the payment of those Taxes and will provide documentary evidence of the payment of those Taxes if made on the Company's behalf.

- (b) Without limiting clause 19.1(a):

- (i) the Contractor will be solely liable for income tax imposed on the Contractor in respect of income the Contractor derives in the performance of the Services; and
- (ii) the Company is not liable to the Contractor, and the Contractor has no claim against the Company, in respect of any sum that would otherwise be payable to the Contractor under the Purchase Order that the Company has:
 - (A) withheld from payment in accordance with any applicable laws until the Company is released or relieved from all liability pursuant to the relevant law in respect of the amount so withheld and is lawfully entitled to pay the sum to the Contractor; and
 - (B) paid in accordance with the any applicable laws to the person or authority legally entitled to accept payment.

19.2 Goods and services tax (GST)

- (a) In this clause 19.2, words and expressions that are not defined in the Purchase Order but that have a defined meaning in the GST Law have the same meaning as in the GST Law.
- (b) Unless expressly stated otherwise in the Purchase Order, all consideration payable under the Purchase Order is exclusive of GST.
- (c) If GST is payable on any supply made by a Party under or in connection with the Purchase Order, then that Party may, subject to issuing a tax invoice, recover from the other Party an amount equal to the GST payable on that supply in addition to the consideration payable for that supply.
- (d) If the amount of GST paid by a Party on any supply made under or in connection with the Purchase Order differs for any reason from the amount of GST recovered from the other Party, then, subject to issuing an adjustment note, the amount of GST recovered from the other Party will be adjusted accordingly.
- (e) If a Party is required under the Purchase Order to pay or reimburse an expense or outgoing of the other Party, the amount to be paid or reimbursed will be the sum of:
 - (i) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other Party is entitled; and
 - (ii) if the payment or reimbursement is subject to GST, an amount equal to that GST.

20 LIABILITIES

20.1 Contractor's liability

The Contractor is liable for, and indemnifies and holds harmless the Company from and against, any liability, loss or damage of any kind whatsoever, arising directly or indirectly from:

- (a) any breach of warranty given by the Contractor;
- (b) personal or bodily injury (including death, sickness or disease) of the Contractor's Personnel and its visitors, except to the extent that any such liability, loss or damage is directly caused by the Company or the Company's Personnel;
- (c) personal or bodily injury (including death, sickness or disease) of any other person (including the Company's Personnel), and loss of or damage to any property (including the Company's property or any vehicle in the Contractor's care, custody or control), and any other loss or damage of any kind whatsoever, to the extent caused or contributed to by the Contractor or its Personnel or by property under the care, custody or control of the Contractor or its Personnel; and
- (d) any breach of confidentiality under clause 23.

20.2 Liability for the Services

- (a) Without limiting clause 20.1, from the Purchase Order Date until the final Practical Completion Date, the Contractor assumes risk of Loss and full responsibility for the cost of replacing or repairing any loss of or damage to the Services that is directly or indirectly caused or contributed to by the Contractor or its Personnel or by property under the care, custody or control of the Contractor or its Personnel.
- (b) For the purpose of this clause 20.2, "Loss" is defined as any liability, obligation, loss, damage, penalty, fine, claim, action, suit, judgment, cost, disbursement or any other amount,

including legal fees and costs of investigation, whether arising in contract, tort, equity, under statute or on any other legal basis.

20.3 Consequential Loss

- (a) Subject to clause 20.3(b), each Party (the “**first Party**”) waives all rights of recourse against, and indemnifies and holds harmless, the other Party from and against the first Party’s Consequential Loss howsoever caused, irrespective of the negligence, breach of duty (whether statutory or otherwise), breach of contract or fault of the indemnified Party or any other person.
- (b) The exclusion of liability in clause 20.3(a) does not apply in relation to any act or omission of Wilful Misconduct, fraud, dishonesty or misrepresentation by the Contractor or any of the Contractor’s Personnel.

20.4 Proportionate liability

The provisions of Part 1F of the *Civil Liability Act 2002 (WA)*, or any equivalent statutory provision in any other relevant jurisdiction (to the extent permitted by law), are excluded.

21 INSURANCE

21.1 Insurances required

The Contractor must obtain and maintain, and ensure that its Subcontractors obtain and maintain, in full force and effect throughout the duration of the Purchase Order the following insurances at its sole cost (or the Subcontractors’ sole cost, as applicable) with financially sound and reputable insurers:

- (a) workers’ compensation / employer’s liability insurance in the form and amounts required by applicable laws, which policy must:
 - (i) provide a waiver of subrogation in favour of the Company; and
 - (ii) contain a principals’ indemnity extension in favour of the Company in respect of any vicarious liability the Company may have arising out of the Contractor’s performance of the Services;
- (b) public and products liability insurance, which policy must:
 - (i) have a limit of at least \$20 million in respect of any one claim;
 - (ii) include a cross liability endorsement that:
 - (A) all agreements and endorsements, except limits of liability, will operate in the same manner as if there were a separate insurance policy covering each party insured; and
 - (B) a failure by any insured party to observe and fulfil the terms of the policy will not prejudice the rights of any other insured party; and
 - (iii) note the Company as an interested party for its respective rights and interests;
- (c) if the Company requests, or if the Services includes and design work or professional services, professional indemnity insurance, which policy must:
 - (i) have a limit of at least \$5 million in respect to any one claim and at least \$20 million in the aggregate;
 - (ii) have a retroactive date of no later than the date that the Contractor first performs the Services; and
 - (iii) be maintained for at least six years following the expiry or termination of the Purchase Order; and
- (d) if applicable, motor vehicle (third party property) insurance for all motor vehicles in the Contractor’s care, custody or control (including Company supplied vehicles), which provides cover for liability to a limit of at least \$5 million in respect to any one claim or the limit required by applicable laws, whichever is greater.

21.2 Insurance policies

- (a) The Contractor must provide certificates of currency of each of the insurances required by this clause 21 to the Company within 14 days after the Purchase Order Date.
- (b) If any event occurs that may give rise to a claim involving the Company under any insurance policy that the Contractor (or its Subcontractors) is required to take under this clause 21 (or clause 4.2(b)), then the Contractor must:

- (i) notify the Company within two days after that event; and
- (ii) ensure that the Company is kept fully informed of any subsequent actions and developments concerning the relevant claim.

22 INTELLECTUAL PROPERTY RIGHTS

- (a) The Company acknowledges and agrees that the Contractor remains the owner of all Background IP.
- (b) The Contractor grants to the Company a non-exclusive, worldwide, royalty free, transferrable and irrevocable licence to use all Background IP to the extent necessary to enable the Company to exercise rights in respect to the Project IP.
- (c) The Contractor acknowledges and agrees that:
 - (i) all Deliverables the Contractor issues to the Company or generates from the performance of the Services are the property of the Company;
 - (ii) it waives any moral rights in such Deliverables and consents to the Company, or any person authorised by the Company, doing any act or omission that would otherwise infringe its moral rights in such Deliverables;
 - (iii) all Project IP vests in the Company and is the Company’s property as and when created; and
 - (iv) it has obtained waivers and consents in favour of the Company from its Personnel involved in the production of the Project IP and the Deliverables.
- (d) The Company grants to the Contractor a non-exclusive, royalty free, non-transferable and revocable licence to use the Project IP for the sole purpose of providing the Services. The licence expires at the expiry or termination of the Purchase Order.
- (e) The Contractor represents and warrants that:
 - (i) it owns the Intellectual Property Rights in the Background IP and that the use of the Background IP will not infringe any rights of third parties (including any Intellectual Property Rights);
 - (ii) the provision of the Services and the Project IP will not infringe any rights of third parties (including Intellectual Property Rights);
 - (iii) it will, at no further cost to the Company, procure all licences and consents to use any Intellectual Property Rights of a third party that are necessary to provide the Services; and
 - (iv) the Contractor has the right to assign all Project IP to the Company in accordance with clause 22(c).

23 CONFIDENTIALITY

- (a) The Contractor must not disclose any of the Confidential Information except where such disclosure is:
 - (i) to the Contractor’s Personnel or any legal, financial and other professional adviser of the Contractor, provided that the Contractor:
 - (A) limits disclosure to that Confidential Information that is necessary to enable the Contractor to perform its obligations or exercise its rights under the Purchase Order; and
 - (B) ensures that such persons agree to keep the Confidential Information confidential in accordance with this clause 23; or
 - (ii) required to be disclosed by law, by order of any court or tribunal of competent jurisdiction, or by the rules of a stock exchange, provided that the Contractor, to the extent possible, immediately notifies the Company that it may be required to disclose the Confidential Information and consults with the Company to limit disclosure.
- (b) The Contractor must not make any public announcement about the Company or the Purchase Order without the Company’s prior written consent.
- (c) The Contractor must promptly refer any media enquiries concerning the Company or the Purchase Order to the Company Representative.

24 DEFAULT AND TERMINATION

24.1 Termination for insolvency, bribery or corruption

To the extent permitted by law and subject to the *Corporations Act 2001* (Cth), the Company may immediately terminate the Purchase Order by written notice to the Contractor if at any time the Contractor becomes insolvent or breaches clause 10.

24.2 Termination for cause

The Company may terminate the Purchase Order, in whole or in part and with immediate effect by written notice to the Contractor, if the Contractor commits a breach of any provision of the Purchase Order that is:

- (a) capable of remedy and the Contractor fails to remedy that breach at its own cost and to the Company's satisfaction within 14 days after receiving the Company's written notice specifying the nature of the breach; or
- (b) incapable of being remedied and the Company has served 14 days prior written notice to the Contractor of its intention to terminate the Purchase Order.

24.3 Termination for convenience

(a) In addition to any other rights it has under the Purchase Order or at law, the Company may, at any time and in its discretion, terminate the Purchase Order in whole or in part without cause and without being required to give any reason, by giving the Contractor at least 30 days written notice setting forth the extent of the termination and the effective date thereof.

(b) If the Purchase Order is terminated under this clause 24.3, the Company will pay to the Contractor the unavoidable and substantiated costs incurred by the Contractor as a direct result of the termination, which may include:

- (i) the portion of the Purchase Order Sum payable in respect of the Services provided to the Company prior to the effective date of termination;
- (ii) the cost of Goods and materials reasonably ordered by the Contractor for the purpose of providing the Services that the Contractor is legally liable to accept and pay for and is unable to otherwise use, but only if the Goods and materials become the property of, and title vests in, the Company upon payment;
- (iii) the reasonable costs of demobilisation; and
- (iv) the reasonable costs of complying with any Company directions relating to the termination,

less any amounts previously paid to the Contractor and subject to any rights that the Company may have to suspend, withhold or set off payments.

(c) The Contractor acknowledges and agrees that the Company has no liability whatsoever to the Contractor if the Purchase Order is terminated (or partial terminated) under this clause 24.3, other than to pay the Contractor the amounts referred to in clause 24.3(b).

24.4 Consequences of termination

On the termination of the whole or part of the Purchase Order under this clause 24 (or, to the extent applicable, no later than the final Practical Completion Date), the Contractor must:

- (a) immediately cease performance of the terminated Services and demobilise from the Site all Contractor's Equipment, Hire Equipment, Contractor Personnel and other things that the Company no longer requires;
- (b) within 14 days after the termination or the final Practical Completion Date (as applicable), deliver to the Company:
 - (i) all Deliverables not previously provided to the Company (whether completed or not in the case of termination); and
 - (ii) all copies in any form of the Project IP and any Company information and data in the possession or control of the Contractor or the Contractor's Personnel (or, if requested, erase or destroy such Project IP, information and data); and
- (c) otherwise do all things and execute any documents necessary to effect the termination.

24.5 Further rights or remedies

- (a) Any termination of the Purchase Order by the Company under this clause 24 does not affect any other rights or remedies that the Company may have against the Contractor.
- (b) If for any reason a termination of the Purchase Order by the Company under clause 24.1 or 24.2 is found to be ineffective, the termination is deemed to have been effected under clause 24.3 and the Company's liability is limited to the payment of the amounts contemplated by clause 24.3(b).
- (c) The Contractor acknowledges and agrees that the Company's termination under this clause 24 does not constitute a basis to allege that the Company has repudiated or breached the Purchase Order, no matter the extent or timing thereof.

25 DISPUTE RESOLUTION

- (a) Any dispute between the Parties must be determined in accordance with this clause 25.
- (b) If there is a dispute between the Parties, either Party may refer the dispute for resolution by giving written notice to the other Party.
- (c) If the dispute is Site specific, then:
 - (i) the Contractor must nominate a representative who must confer with the Company Representative at least once within 14 days after receipt of the notice of dispute to attempt to either resolve the dispute or agree on methods of doing so; and
 - (ii) if the dispute is not resolved at Site level within 14 days after the above conference, either Party may refer the dispute to the Contractor's or the Company's senior management.
- (d) If a dispute is referred to the Contractor's or the Company's senior management, the Contractor's and the Company's senior management will use all reasonable endeavours to resolve the dispute.
- (e) If the dispute has not been resolved within 60 days after the date that the dispute is referred to senior management under clause 25(d), either Party may refer the dispute to arbitration in accordance with clause 25(f).
- (f) All disputes not settled by negotiation are to be determined by final and binding arbitration. If a Party commences arbitration proceedings, then:
 - (i) the arbitration will be conducted in accordance with the Resolution Institute's "Arbitration Rules", other than confidentiality, which will be deemed to be incorporated by reference into this clause 25;
 - (ii) Perth, Western Australia will be the seat of the arbitration;
 - (iii) if the Parties are unable to agree on an arbitrator, either Party may request a nomination from the Chair of the Resolution Institute;
 - (iv) all arbitration proceedings and any award are confidential and must not be disclosed except to the extent to enforce any award or as required by law; and
 - (v) judgment on any award may be made by a court of competent jurisdiction.
- (g) Notwithstanding any dispute, the Contractor must continue without delay to perform the Services in accordance with the Purchase Order.

26 NOTICES

- (a) All notices and communications given under the Purchase Order must be:
 - (i) in writing in English;
 - (ii) marked for the attention of the Company or the Contractor, as applicable;
 - (iii) personally delivered, sent by prepaid registered post, or sent by email to the last notified address of the Company or the Contractor (as applicable), except for invoices, which are required to be submitted by email to both e-invoice@yara.com and the Company Representative in accordance with clause 18(b)(v); and
 - (iv) signed or, in the case of delivery by email, sent by or on behalf of an authorised person of the Party giving it, except for notices sent by email under clause 24 or 25(b), which

must be sent as an attachment to the email and signed by the Party's authorised representative.

- (b) Notices and communications may be signed by electronic signature, which will be considered an original signature for all purposes and will have the same force and effect as an original signature. To avoid doubt, "electronic signature" means a digital or encrypted signature applied to a document using encryption technology.
- (c) A notice is deemed to be delivered:
 - (i) if personally delivered, on receipt;
 - (ii) if posted in Australia, on the fifth day after posting;
 - (iii) if posted overseas, on the fourteenth day after posting; and
 - (iv) if emailed, on the date the email is sent unless transmitted after 5:00pm or on a Saturday, Sunday or public holiday in Perth, Western Australia, in which case it is deemed to be given on the next day, provided the sender does not receive an automatic message such as a non-delivery report, "out of office" or similar automated replies.

27 GENERAL

27.1 Assignment or novation

- (a) The Contractor must not assign, novate, mortgage, charge, encumber or otherwise deal with any of its interests, rights or obligations under the Purchase Order without the Company's prior written consent.
- (b) The Contractor must not, and must ensure that its Subcontractors do not, create or do anything that could result in an encumbrance (including under the *Personal Properties Securities Act 2009* (Cth)) on any of:
 - (i) the Company's property or the Goods; or
 - (ii) the Contractor's Equipment or Hire Equipment if such encumbrance would prevent the Contractor from diligently performing the Services.
- (c) The Company may assign, novate, mortgage, charge, encumber or otherwise deal with any of its interests, rights or obligations under the Purchase Order, or any part of it, at any time without the Contractor's consent.

27.2 Waiver and exercise of rights

- (a) Any waiver by a Party of any right relating to the Purchase Order is only effective if set out in writing and signed by that Party.
- (b) The single or partial exercise or waiver of a right relating to the Purchase Order does not prevent any other exercise of that right or the exercise of any other right.
- (c) The failure to, or delay in, exercising a right relating to the Purchase Order does not operate as a waiver of that right or otherwise prevents the exercise of that right.

27.3 Warranties and indemnities

- (a) Each representation, warranty and indemnity in the Purchase Order is a continuing obligation separate and independent from the Contractor's other obligations.
- (b) The benefit of any indemnity, hold harmless, waiver of recourse or other benefit contained in the Purchase Order to which the Company is entitled will also be held by the Company to the benefit of, and will extend to protect, each of the Company's Personnel and the Company Group.

27.4 International convention on sale of goods

The Parties expressly exclude the application of the United Nations "Convention on Contracts for the International Sale of Goods".

27.5 Incoterms

Where the Purchase Order includes an Incoterm (as defined by the International Chamber of Commerce), the rules and definitions covering the latest version of that Incoterm will apply, except to the extent that those rules and definitions conflict with any provision of the Purchase Order.

27.6 Language of the Purchase Order

The language of the Purchase Order is English. All Deliverables and other documents must be provided in English.

27.7 Amendment

- (a) Subject to clause 14, the Purchase Order may not be amended except in writing signed by both Parties.

- (b) If any provision of the Purchase Order is illegal or unenforceable under the laws of any relevant jurisdiction, it may be severed for the purpose of that jurisdiction without affecting the enforceability of the other provisions of the Purchase Order.

27.8 Survival

- (a) No provision of the Purchase Order merges on completion of any transaction contemplated by the Purchase Order.
- (b) The rights and obligations of the Parties under:
 - (i) any representations, warranties, indemnities, audit rights; or
 - (ii) clauses 1 (Definitions and interpretation), 11.3 (Title and risk), 17 (Defective Services), 19 (Taxes), 20 (Liabilities), 22 (Intellectual Property Rights), 23 (Confidentiality), 24 (Dispute resolution) and 27.9 (Governing law),survive termination of the Purchase Order, together with any other provision which by its nature is intended to so.

27.9 Governing law

The Purchase Order, and any dispute arising out of or in connection with the Purchase Order, is governed by the laws of Western Australia and, subject to clause 25, the Parties submit to the exclusive jurisdiction of the Western Australian courts.

27.10 Costs

Unless expressly stated otherwise in the Purchase Order, each Party must pay its own costs of negotiating, preparing and executing the Purchase Order and any other instrument executed under the Purchase Order.