

The date of this **contract** is 20 (please complete details)

Contract number: (Supplier to complete details)

**THE SUPPLIER:** The **Supplier (we, us, our)** is set out in Item 2 of the Contract Details.

**THE BUYER:** The **Buyer (you, your)** is set out in Item 1 of the Contract Details

## CONTRACT

**You** agree to buy from **us**, and **we** agree to supply **you** with, the **Contracted Tonnages** of the **Product** on the terms and conditions of this **Contract** and on the basis that:

- (a) this **contract** incorporates the provisions set out in the JustFert Contract Details and the JustFert General Terms and Conditions;
- (b) **you** agree to make, procure or allow (as the case may require) the disclosures in, and the use of and disclosures of, the personal information referred to in the Privacy Note below.

**Executed** by the parties as an agreement.

**SIGNED by CSBP LIMITED:**

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Signature of Authorised Representative

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Name

**SIGNED by (insert name of Buyer):**

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Signature of Authorised Representative  
(If a company, a duly authorised representative should sign or if a partnership, the managing partner or each partner should sign)

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Signature of Authorised Representative  
(If a company, a duly authorised representative should sign or if a partnership, the managing partner or each partner should sign)

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Name of Authorised Representative

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Name of Authorised Representative

**NOTE: PLEASE READ THIS CONTRACT (INCLUDING THE ANNEXED GENERAL TERMS AND CONDITIONS OF SUPPLY) CAREFULLY. FEES AND CHARGES APPLY IN THE EVENT OF A FAILURE TO ORDER AND COLLECT FERTILISER SET OUT IN THE SCHEDULE.**

**Privacy Note:** CSBP collects *your* personal information in this document (and in any order issued under this document) for the purposes of the supply of CSBP's products and services to *you*, to assess *your* creditworthiness, and to inform *you* of products and services that may be of interest to *you*. We collect information from *you* and *your* agents and may also collect personal information about *you* from *our* agents and distributors; credit reporting bodies (CRBs) and service providers who assist *us* in performing obligations in relation to this document. If *you* choose not to provide the personal information requested in this contract then CSBP will not be able to supply Product to *you*. CSBP will disclose the personal information collected from *you* to *our* related bodies corporate and to the Agent specified in this document, to persons who can verify *your* identity, to third parties that provide administrative or other services to *us* such as to *our* credit insurers, CRBs (including when *we* are making an enquiry about *you* or seeking a report about *you* from that CRB), debt collection agencies; or any other person from which *we* have collected *your* personal information from in relation to the products and services that *we* provide *you*. Our Privacy Policy (available at [www.csbp-fertilisers.com.au/privacy](http://www.csbp-fertilisers.com.au/privacy)) contains information about how *you* may access personal information *we* hold about *you* and seek the correction of such information complain about a breach of the Australian Privacy Principles, and how *we* will deal with such a complaint.

**JustFert - Contract Details****Item 1 - Buyer (you, your)(please complete details)**

Company or Personal Name	
ACN/ABN	
Trading and/or Trust Name (if any) and ABN for that trust	
Account Number	
Address (must be a physical address, not a PO Box)	
Phone	
Email (must be included)	

**Item 2 – Supplier (we, us, our)**

Name	CSBP Limited
ACN/ABN	81 008 668 371
Address	Kwinana Beach Road, Kwinana, WA, 6167
Phone	1800 033 242
Email	<a href="mailto:sales@justfert.com.au">sales@justfert.com.au</a>

**Item 3 - Details**

Product	
Collection Location	CSBP Fertilisers facility, Kwinana Beach Road, Kwinana, WA, 6167
Contracted Tonnage	
Set Price (\$/t)	
Collection Window	
Request Number (JustFert to complete)	
Contract Date	
Minimum Order Size	
Scheduling Conditions (select appropriate conditions)	Appointment on order / Appointment on standby
Availability Conditions (select appropriate conditions)	Late collection times / Standard collection times
Payment Terms (must be prior to collection in any event)	Payment on order / Payment on appointment

**Item 4 – Orders\***

Order No	Tonnage**
1	
2	
3	
4	

\* Orders specify the tonnage of Product in each separate collection. You must still book an appointment for collection with the Supplier

\*\* Tonnage for each Order must be greater than Minimum Order Size

## JustFert - General Terms and Conditions

### 1. UNDERSTANDING THIS CONTRACT

#### 1.1 Definitions

The following definitions apply in this *contract*:

**“Agreed Appointment Date”** means the time and date agreed between you and us under the terms of this contract for collection of your Order.

**“Alternative Collection Date”** means the date notified by us to you for the collection of your Order under clause 4.1(e).

**“Australian Consumer Law”** means Schedule 2 to the Competition and Consumer Act 2010 (Cth).

**“Business Day”** means a day on which banks are generally open for banking business in Western Australia but does not include a Saturday or Sunday.

**“Buyer”** means *you*, the person described in *Item 1 of JustFert - Contract Details* and, where applicable, includes *your* officers, successors and permitted assigns.

**“Claim”** means a claim, action, proceeding, judgment or demand however it arises and whether present or future, fixed or unascertained, actual or contingent.

**“Collection Window”** for the *Product* means the period specified in the “Collection Window” column in the Table in *Item 3 of JustFert - Contract Details* for collection of that *Product* by *you* or, if we extend the *Collection Window* under clause 4, such *Collection Window* notified by *us* in accordance with that clause.

**“contract”** means this agreement between the *Buyer* and the *Supplier* including *JustFert - Contract Details* and these JustFert – General Conditions of Supply.

**“Contracted Tonnage”** means the total tonnage of a *Product* *you* agree to buy, as specified in the row entitled “Contracted Tonnage” in *Item 3 of JustFert - Contract Details*.

**“Encumbrance”** means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money.

**“Force Majeure Event”** means any event or cause beyond *our* reasonable control as a direct or indirect result of which a party is prevented from or delayed in performing any of its obligations under this *contract* and that is beyond *its* reasonable control, including but not limited to forces of nature, industrial action and action or inaction by a *Government Agency*, failure of any of *its* suppliers to supply any relevant product, input or service, the failure or breakdown of or accident to, plant or machinery.

**“Government Agency”** means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of law.

**“Loss”** means a loss, liability, damage, cost (including legal costs on a full indemnity basis) or expense however it arises and any amount for GST on any of them except to the extent that the party suffering the *Loss* can obtain an input tax credit for that GST or expense.

**“Minimum Order Size”** means the *Minimum Order Size* specified in Item 3 of the *JustFert – Contract Details*.

**“Order”** means an order (expressed in tonnes) of the Contracted Tonnage of the Product as set out in *JustFert - Contract Details*.

**“Ordered Tonnage”** means the quantity of a *Product* specified in Item 4 of the *Just Fert- Contract Details* (which for the sake of clarity must not be less than the Minimum Order Size in respect of each Order), and which comprises part or all of the *Contracted Tonnage* of that *Product*.

**“Party”** means a party to this contract.

**“Product”** means a fertiliser product imported or manufactured by *us* and listed in the column entitled “Products” in the Table in *Item 3 of JustFert - Contract Details*.

**“Related Body Corporate”** has the meaning given to that term in section 50 of the Corporations Act 2001 (Cth).

**“Set Price”** means the amount (per tonne) specified in the column entitled “Set Price” in Item 3 of *JustFert - Contract Details* you must pay us for a Product which you purchase from us under this contract.

**“Specification”** means the product nutrient specification for the product as set out in the Supplier Product list.

**“Supplier”** means *us*, the person described in *Item 2 of JustFert - Contract Details* and where applicable, includes *our* officers, successors and permitted assigns.

**“Supplier Product list”** means the fertiliser Product range published by the Supplier on its website at <https://csbpfertilisers.com/fertilisers> from time to time or any replacement web address notified by CSBP in writing to the Buyer.

**“Trust”** means the trust (if any), details of which are specified in this *contract*.

**“Uncollected Tonnage”** means the quantity of *Contracted Tonnage* of a *Product* which you have not collected prior to the end of the *Collection Window* (or the extended *Collection Window* as the case may be) as a result of the application of clauses 4.1(e) or 4.2. For the avoidance of doubt, *Uncollected Tonnage* excludes any quantity which results from the delivery tolerance of the *Contracted Tonnage*.

**“we”, “us”, “our”** means the *Supplier* and where applicable includes *our* officers, successors, assigns and employees.

**“Wilful Misconduct”** means a deliberate and voluntary act or omission, the consequences of which were foreseen or foreseeable and intended to cause, or with reckless indifference to, harm to the other party, people, property or equipment.

**“you”, “your”** means the *Buyer*.

**“your obligations”** means all *your* obligations under or in connection with this *contract*.

## 1.2 Rules for interpreting this contract

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this *contract*, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) legislation is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or contract, or a provision of a document or contract, is to that document, contract or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this **contract** or to any other document or contract includes a permitted substitute or a permitted assign of that party;
  - (iv) “includes” means includes without limitation;
  - (v) a 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; and
  - (vi) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) Unless clearly indicated to the contrary words defined in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth) have the same meaning in this *contract*.
- (f) An obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally. Without limiting the previous sentence where *you* are a partnership, each partner in that partnership is jointly and severally liable for the performance of all obligations, and the payment of all monies under this agreement.
- (g) If the day on or by which a person must do something under this *contract* is not a *Business Day*, the person must do it on or by the next *Business Day*.

## 2. SUPPLY

### 2.1 Contract to Supply

*You* agree to purchase from *us*, and *we* agree to sell to *you*, the *Contracted Tonnage* for each *Product* on the terms and conditions of this *contract*. *Our* obligation to supply the *Contracted Tonnage* for a *Product* is limited to supply after *you* have made an appointment with *us* to collect during the *Collection Window* the *Ordered Tonnage* for each *Order*.

### 2.2 Survival of obligations

Despite the expiry of the *Collection Window*, earlier termination of this *contract* for any reason, or anything to the contrary in this *contract*, any obligations or liabilities (including any obligation to pay money or sell or purchase the *Products* pursuant to *this contract*) of any party which arose prior to expiry of the *Collection Window* or earlier termination of this *contract* (as the case may be) will survive such expiry or termination and continue to remain binding on that party, provided that, for the sake of clarity, if *you* have failed to make an appointment to collect *the*

*Contracted Tonnage* prior to the end of the Collection Window, the obligation for CSBP to supply the relevant *Product* expires on the end of the *Collection Window*, or any earlier termination.

### **2.3 Acknowledgment**

You acknowledge and agree that:

- (a) you are buying the *Products* only for the purpose of using it on properties owned or leased by you; and
- (b) you will not use the *Products* for the purpose of resupply or for use by others in a buying group.

## **3. SUPPLY AND PURCHASE OF PRODUCTS**

### **3.1 Supply during Collection Window**

You may not collect *Contracted Tonnage* prior to the commencement (or after the end) of the *Collection Window* for that *Contracted Tonnage* without first obtaining our prior written approval.

## **4. COLLECTION OF PRODUCTS**

### **4.1 Collection during Collection Window**

- (a) You must book an appointment with us to collect, during the *Collection Window*, the *Ordered Tonnage* in respect of each Order.
- (b) You acknowledge it is a feature of the JustFert contracting model that appointments for collection of *Ordered Tonnage* are more limited than offered by the Supplier under its standard fertiliser sales offer, and that appointments offered under this contract are subject to limitations including those set out in this clause 4.1(c) and clause 4.1(d).
- (c) If “Scheduling Conditions” in Item 3 of JustFert - Contract Details specify that:
  - (i) “*Appointment on order*” applies to the collection of the *Contracted Tonnage*, you must make an appointment for the collection of each Order within 2 Business Days of the date that the parties enter into this contract. The Agreed Appointment Date cannot be modified by either party other than by agreement in writing;
  - (ii) “*Appointment on standby*” applies to the collection of the *Contracted Tonnage*, we will contact you by phone or email, before or during the *Collection Window*, and offer you three potential appointment times to select from for each Order within the *Collection Window* and with at least 7 days’ notice ahead of the proposed appointment times. You must accept one of the proposed appointments in order for a valid appointment to have been made for the Order. The Agreed Appointment Date cannot be modified by either party other than by agreement in writing.
- (d) If Availability Conditions in Item 3 of JustFert - Contract Details specify that:
  - (i) “*Late collection times*” apply when booking an appointment for collection, we will offer you an appointment time for collection of your Order at only limited

- particular times and days of the week including (but not limited to) evenings and Fridays;
- (ii) “*Standard collection times*” apply when booking an appointment for collection, we will use all reasonable endeavours to agree appointment times for collection which are convenient to you.
- (e) If you do not make an appointment for all or part of your Contracted Tonnage under the terms of this clause 4.1, or you do not collect *Ordered Tonnage* on the Agreed Appointment Date, then we may, acting reasonably and without limitation to *our* rights under this *contract* or at law:
- (i) request that you collect your Ordered Tonnage that you have not collected at an Alternative Collection Date, notified by us to you. The Alternative Collection Date may be outside of the Collection Window, in which case we will extend the Collection Window and provide you with notice of such extension; or
  - (ii) cancel the *Order* in respect of that uncollected *Ordered Tonnage*.
- (f) The notice of an Alternative Collection Date and the extension of a Collection Window for a quantity of *Ordered Tonnage* does not change or extend the *Collection Window* for any other *Product* or *Contracted Tonnage* that is not the subject of a notice given under clause 4.1(e).

#### **4.2 Extension of Collection Window**

If we agree to extend the *Collection Window* pursuant to clause 4.1(e), you must pay us a storage fee of \$15 per tonne per month for each tonne of *Ordered Tonnage* that we have extended the *Collection Window* for until such time as you collect or take delivery of that *Ordered Tonnage* prior to the end of the extended *Collection Window*. We may invoice this storage fee on a monthly basis in advance or in arrears. If we invoice the storage fee in advance and the *Ordered Tonnage* is collected before the end of the relevant monthly period then we will refund (on a pro-rata basis) monies paid which relate to the period following collection of the relevant *Ordered Tonnage*. If you have not collected (or taken delivery of) any or all of the relevant *Ordered Tonnage* during the extended *Collection Window* then the *Order* is automatically cancelled in respect of that *Uncollected Tonnage* as at the end of the extended *Collection Window*.

#### **4.3 Failure Collect/Receive Product**

If you have not collected all Contracted Tonnage at the end of the Collection Window including as a result of you having failed to:

- (a) make an appointment to collect *Ordered Tonnage* which we have then cancelled under clause 4.1(e), or
- (b) collect *Ordered Tonnage* under clause 4.2,

then you shall pay to us, within 15 Business Days of us sending you an invoice, a non-collection fee calculated as follows:

$$F = \$80 \times T$$

Where:

**F** = the non-collection fee payable by *you* to *us*;

**T** = *the Uncollected Tonnage*;

This amount is in addition to amounts payable by *you* (if any) under clause 4.2.

If you have paid the Set Price (or a portion of the Set Price) to us prior to the end of the Collection Window in relation to Uncollected Tonnage then we will refund that amount to you (after the end of the Collection Window) following the cancellation of an Order in respect of that Uncollected Tonnage. In refunding such monies to you we may, without prejudice to our rights under clause 4, set off against those monies any undisputed amounts payable by you to us under this contract (including under clause 4.2 or clause 4.3).

#### **4.4 Acknowledgement**

The Parties acknowledge that *your* failure to make an appointment for the collection of, and/or your failure to collect, the *Contracted Tonnage* under the terms of this contract is likely to cause loss to *the Supplier* and that the fees set out in clause 4.3 above represent a genuine pre-estimate by the parties of the loss suffered by *the Supplier* as a result of *your* failure to collect the *Contracted Tonnage*.

### **5. PRICING AND PAYMENT**

- (a) *You* must pay the amount which is the Set Price for a Product multiplied by the tonnage of that Product specified in an Order for that Product in full in accordance with the Payment Terms as set out in Item 3 of JustFert – Contract Details.

If Payment Conditions in Item 3 of JustFert - Contract Details specify that:

- (i) “*Payment on order*” applies, we will issue an invoice for the Ordered Tonnage on or after the date of execution of this contract. Payment by you of the invoice is due within two Business Days of receipt by you of the invoice.
  - (ii) “*Payment on appointment*” applies, we will issue an invoice for an Order on or after the day an appointment is agreed for that Order. Payment by you of the invoice is due within two Business Days of receipt by you of the invoice.
- (b) Without limiting clause 5(a), *you* must make any payments for Products under this contract by paying the amount which is due or payable to *us* in accordance with our payment instructions issued from time to time.
- (c) *We* may suspend the performance of any or all of *our* obligations under this contract immediately by written notice to *you* if *you* fail to make an undisputed payment when due under this contract, or any other contract or transaction between *you* and the Supplier and the overdue amount remains unpaid for a period of 7 days after receipt of written notice from the Supplier demanding payment.

### **6. GST**

- (a) Unless clearly indicated to the contrary, all amounts referred to in this *contract*, other than this clause, are GST exclusive.
- (b) In addition to any amount *you* must pay under this *contract*, *you* must pay *us* an amount equal to any GST paid or payable by *us* in respect of any taxable supply.



(c) *You must pay the GST at the same time as you pay any amount under this contract.*

## **7. TITLE AND RISK**

### **7.1 Title**

We retain property in and ownership of any *Products* supplied to *you* until *you* have paid all amounts that *you* are required to pay under this *contract*. For the avoidance of doubt, where a payment initially made by *you*, or on *your* behalf, in relation to *Products* is then recovered by a third party (including by, or on behalf of, a liquidator or the holder of a Security Interest (as that term is defined under the *PPSA*)) from *us*, we may treat the original payment as having not been made and we retain title in and ownership of the relevant *Products*.

### **7.2 Risk**

Risk of damage to any *Products* or risk of loss of any *Products* passes to *you* at the time of collection of that *Product* by *you*. We are not liable to *you* for any loss or damage or deterioration of any *Products* after either collection by *you*, unless such loss or damage or deterioration results from *our* negligence or *Wilful Misconduct*, *our* breach of any of the warranties in clause 10.1, or any warranty or guarantee implied by law and not excluded by clause 10.2.

## **8. QUALITY**

If the quality of the *Ordered Tonnage* collected by *you* does not correspond with *our Specification* for that *Product* *you* must promptly notify *us* in writing and (without limiting *your* rights at law, including those of *your* rights under the Australian Consumer Law which may not be excluded) we will, at *our* option either:

- (a) replace the *Ordered Tonnage*; or
- (b) supply the equivalent to the *Ordered Tonnage* and pay for any reasonable additional delivery costs.

## **9. FORCE MAJEURE**

### **9.1 Delay or Cancellation**

A *party* is not liable for failure to comply with this *contract* (other than an obligation to pay money) to the extent that the failure arises out of, or in connection with, any *Force Majeure Event*. The *party* affected by the *Force Majeure Event* must promptly notify the other *party* of the *Force Majeure Event* and must use all reasonable efforts diligence to overcome such event and resume performance.

Without limitation to the foregoing if a *Force Majeure Event* occurs, *we* may delay the supply of *Ordered Tonnage* or cancel an *Order* for all, or any part of the *Ordered Tonnage*, to the extent that *our* ability to supply such *Ordered Tonnage* is affected, prevented or delayed by the *Force Majeure Event*. We will use reasonable endeavours to mitigate the effect on *you* and to avoid or remove the circumstance constituting the *Force Majeure Event*, however nothing will require *us* to expend more than reasonable sums of money.

### **9.2 Termination for Force Majeure Event**

If a *Force Majeure Event* affecting us and our ability to supply *Contracted Tonnage* or *Ordered Tonnage* (as the case may be) continues for more than 60 days, we may vary this *contract* by reducing the quantity of *Contracted Tonnage* or *Ordered Tonnage* to the extent that our ability to supply that *Contracted Tonnage* or *Ordered Tonnage* is affected or prevented by the *Force Majeure Event*.

## **10. WARRANTIES**

### **10.1 Our Warranties**

In addition to the rights that you may have under the *Australian Consumer Law*, we warrant to you, in relation to any *Ordered Tonnage*, that:

- (a) it is free from any *Encumbrance*;
- (b) we have good title to it; and
- (c) it conforms to our *Specification* for that *Product* and is of merchantable quality.

### **10.2 Exclusion of Warranties**

Except for the warranties expressly made in this *contract*, and to the extent that your rights may not be excluded under the *Australian Consumer Law*, all conditions, warranties, undertakings, guarantees or representations express, implied or applied, arising by statute, general law or otherwise, are expressly excluded to the extent permitted by law.

## **11. LIMITATION OF LIABILITY**

### **11.1 Supplier Liability**

- (a) To the extent permitted by law, and subject to clause 11.1(b), our liability to you for any *Loss* or *Claim* arising under or in connection with:
  - (i) this *contract* (including in respect of any negligence by CSBP) is limited to the amount paid or payable by you under or in connection with this *contract*;
  - (ii) the supply or non-supply of *Product* under this *contract*, is limited, at our option, to one or more of the following:
    - (A) replacing the *Ordered Tonnage*; or
    - (B) supplying the equivalent to the *Ordered Tonnage* and the payment of any reasonable additional delivery costs.
- (b) Subject to clause 11.3, the limitation of liability in clause 11.1(a) does not apply to limit our liability for *Losses* or *Claims*:
  - (i) for property damage, personal injury or death caused by our negligence;
  - (ii) arising out of our *Wilful Misconduct*;

### **11.2 Limitation of Liability**

- (a) To the extent permitted by law, and subject to clause 11.2(b) your liability to us for any *Loss* or *Claim* arising under or in connection with this *contract* (including in respect of any negligence by you), other than any amounts payable to us for the supply of *Product* to you, is limited to the amount paid or payable by you under or in connection with this *contract*.
- (b) Subject to clause 11.3, the limitation of liability in clause 11.2(a) does not apply to limit your liability for *Losses* or *Claims*:
  - (i) for property damage, personal injury or death caused by your negligence;

(ii) arising out of your *Wilful Misconduct*

### 11.3 Exclusion of Liability

To the extent permitted by law neither *party* (**Liable Party**) is liable to the other *party* under or in connection with this *contract* for any consequential *Loss*, or any loss of revenue or profits, loss of opportunity, or *Loss* arising from business interruption (in each case other than the amounts payable under clauses 4.2, 4.3 or 5) suffered unless due to the *Wilful Misconduct* of the *Liable Party*.

## 12. DEFAULT

If a party to this *contract* (**defaulting party**) is in breach of any of its obligations in a manner that is material in the context of this *contract* as a whole, or owes monies to the other party (**non-defaulting party**) under this contract, and it fails to remedy that breach or pay those monies within 7 days after the non-defaulting party gives notice in writing to the defaulting party specifying that failure and requiring the defaulting party to remedy it, the non-defaulting party may (without limitation or prejudice to its rights and remedies that arise from the breach or that accrue to it after the termination of this *contract*) terminate this *contract* by giving the defaulting party a notice of termination in writing.

Termination of this *contract* does not affect rights or remedies accrued prior to the date of termination.

If this *contract* is terminated pursuant to this clause then (without limitation or prejudice to rights and remedies arising from a breach or that accrue after the termination of this *contract*) all *Orders* for *Product* are cancelled and the Collection Window for the *Product/Orders* is deemed to have expired as at the date of termination, and (if we terminate this *contract*) amounts are payable by you under clause 4.3.

## 13. INTEREST

In the event that you fail to make payment of any monies due and payable to us under this contract by the due date for payment of those monies, you shall pay us, on demand, interest on all such arrears computed from the due date of payment to, but excluding, the date the payment of the amount due is made. Interest shall be calculated on a daily basis on the overdue amount at the rate per annum equal to 4% plus the Reserve Bank of Australia Cash Rate Target as published on the website of the Reserve Bank of Australia on the due date for payment of the amount. We may also compound interest by continuing to charge interest on any unpaid interest.

## 14. NOTICES

- (a) Notices under this contract must be in writing. A notice must be delivered personally or sent by email or post to the other person to their address in JustFert - Contract Details of this contract, or the address as otherwise notified by that party to the other party.
- (b) Each party can change its contact details in the JustFert - Contract Details by written notice to the other party.
- (c) Without limiting any other means by which a party may be able to prove that a notice has been received by the other party, a notice under this contract will be taken to be properly served or given if:

- (i) delivered by hand, on the date of delivery;
- (ii) sent by prepaid post, 4 Business Days after posting; or
- (iii) sent by email:
  - (A) when the sender receives an automated message confirming delivery; or
  - (B) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email (as the case may be) has not been delivered;
  - (C) but if the delivery or receipt is on a day which is not a Business Day or is after 5.00 pm (addressee's time) it is deemed to be received at 9.00 am (addressee's time) on the following Business Day.

## 15. ASSIGNMENT

- (a) Subject to clause 15(b) a *party* may not assign or try to assign any of its rights or obligations under this *contract*, without first obtaining the other *party's* prior written consent (not to be unreasonably withheld).
- (b) A *party* may at any time assign any of its rights or obligations under this *contract* to a person acquiring the whole or a relevant part of that *party's* business or assets or who is otherwise financially and technically capable of performing that *party's* obligations under this contract.

## 16. TRUST LIABILITY

(a) You acknowledge and agree that you are liable under this *contract* as trustee of the *Trust* (if any) and in your own right.

(b) *Trust Warranty*: If you enter into this *contract* as trustee of a *Trust* you represent and warrant that:

- (i) you have power as trustee of the *Trust* to enter into this *contract*;
- (ii) you are the only trustee of the *Trust* and no action has been taken to remove you as trustee or to appoint an additional trustee of the *Trust*;
- (iii) you have a right to be fully indemnified out of the property owned by the *Trust* in relation to monies spent under this *contract* and you have not committed any breach of *Trust* or done or omitted to do anything which has prejudiced or limited your rights of indemnity;
- (iv) you have not defaulted in the performance and observance of Your obligations as trustee of the *Trust*;
- (v) no action has been taken to terminate the *Trust*;

(c) A reference in this *contract* to:

- (i) you includes you as trustee of the *Trust* and you in your own right; and
- (ii) a reference to your property includes property owned by you as trustee of the *Trust* and property owned by you in your own right.

## 17. CONFIDENTIALITY

- (a) Each *party* must keep the terms of this *contract* (including *Set Price*) confidential and not disclose it to any third party without the other party's prior written consent.
- (b) A *party* may disclose the terms of this contract only to such of its employees, partners, directors and officers and *Related Bodies Corporate* who need to know the terms for the purposes of performing its obligations or enjoying its rights under this *contract*. A *Party* shall ensure that the persons that the *Party* discloses information to in accordance with this clause do not do or omit to do anything which, if done or omitted to be done by that *party*, would be a breach of that *party's* obligations under this *contract*.
- (c) The confidentiality obligations in clause 17(a) do not apply to information that is or becomes legally in the public domain at the time of disclosure without a breach of clause 17(a), or to information that the *party* is required to disclose pursuant to any applicable law, legislation, regulation, order or notice of any court, tribunal or governmental body, prudential requirement or stock exchange listing requirement.

## **18. GENERAL**

### **18.1 Governing Law**

This *contract* is governed by the law in force in the State of Western Australia and each party submits to the non-exclusive jurisdiction of the courts of Western Australia and any such courts which may hear appeals from those courts.

### **18.2 Operation of this Contract**

This *contract* is separate to any other agreement for the supply of fertiliser between *you* and *us*.

### **18.3 Severance**

If the whole or any part of a provision of this *contract* is invalid, illegal or unenforceable, then such provision will be severed from this *contract* and neither that part or provision or its severance will affect the validity or enforceability of the remaining parts or provisions of this *contract*.

### **18.4 Waiver**

The failure of a *Party* at any time to require performance of any obligation under this contract is not a waiver of that *Party's* right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that *Party* acknowledges in writing that the failure is a waiver; and
- (b) at any other time to require performance of that or any other obligation under this contract.

### **18.5 Counterparts**

- (a) This contract may be signed in any number of counterparts that together will constitute one instrument. A party may sign this contract by signing any counterpart.
- (b) A party may sign this contract with electronic signatures inserted by that party, including via DocuSign or any other generally accepted technology which the parties agree satisfies applicable requirements for execution of a document by electronic signature. A party who received such electronic signatures may assume that such execution was validly and lawfully performed by that other party.