1. Interpretation: “Applicable Laws” means laws and regulations applicable to the supply of Goods and/or Services pursuant to these Terms. “Goods” means the goods being purchased under these Terms; “GST” means GST as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time (“GST Act”) or any replacement or other relevant legislation or regulations; “Insolvency Event” means circumstances in which the Supplier is unable to pay its debts as they fall due or otherwise takes any corporate action or any steps are taken or legal proceedings are started for: (a) its winding-up, dissolution, liquidation, or re-organisation, other than to reconstruct or amalgamate while solvent on terms approved by Supplier; (b) the appointment of a controller, receiver, administrator, official manager, trustee or similar officer of it or of any of its revenues and assets; or (c) seeks protection or is granted protection from its creditors, under any Applicable Laws; “Intellectual Property Rights” means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, trade marks, trade secrets, know-how, confidential information, patents, inventions and discoveries; “PPSA” means the Personal Property Securities Act 2009 (Cth); “Purchaser” means Rural Industries Research Development Corporation trading as AgriFutures Australia and conditions as set out in the Order submitted by the Purchaser to the Supplier in any form requesting that the Supplier supply Goods or Services in accordance with these Terms; “Services” means any director, officer, employee, consultant, adviser, partner, agent, distributor or contractor of a Purchaser; “Terms” means these Terms as set out in the Order submitted by the Supplier under these Terms; “Supplier” means the entity from whom the Goods/Services which are the subject of these Terms, are being ordered; and “Terms” means a written order from whom the Goods/Services which are the subject of these terms, are being ordered; “Term” means any of these Terms, to the extent that there are any inconsistencies between these Terms and an Order, the Order takes precedence. Terms do not include any condition: (i) the Goods or Services issue written instruction to the Supplier to purchase the Goods and/or Services detailed in the Order. The Order constitutes an offer by the Purchaser to purchase the Goods and/or Services detailed in the Order. The Order will be deemed to be accepted by the Supplier on the earlier of: (a) the Supplier issuing a written acceptance of the Order or (b) the Supplier doing any act consistent with fulfilling the Order. Once accepted, the Order will constitute a new contract between the parties incorporating these Terms. The Order supersedes all previous communications and negotiations between the parties relating to the subject matter of the Order.

Price and Payment Terms: Unless otherwise specified in the Order, payment for the Goods and/or Services will be made to the Supplier within 14 days from the date of the invoice. The price for the Goods and/or Services will be the price specified on the Purchase Terms. Unless otherwise agreed in writing, the price will be in Australian dollars and includes: (a) all delivery and packaging costs including, but not limited to, import/export clearances, shipping, carriage and insurance costs; and (b) GST, sales tax, excise duty and any other applicable taxes. No other fees or charges will be payable unless agreed in writing by the Purchaser prior to such expenses being incurred. The price of the Goods and/or Services may only be varied by agreement in writing between the Supplier and Purchaser.

Invoices: The Supplier must submit an invoice to the Purchaser for each individual Order. Invoices must be emailed or facsimiled to the Purchaser at the address provided in the Order. The Supplier will not invoice for payment of the goods or services in respect of which the Order is not terminated. The Supplier will enjoy quiet possession of the Goods and the Purchaser will pay all amounts for which the Order is not terminated. The supplied service is only subject to a valid tax invoice being delivered to the Purchaser and the corresponding sales tax, excise duty and any other applicable taxes.

Delivery: The cost of delivery of the Goods is included in the price of the Goods, unless otherwise stated on the Order. The Supplier must deliver the Goods and/or Services in accordance with the Order, including delivering: (a) on the date specified in the Order; (b) to the location specified; and (c) during normal operating hours at the delivery location. The Supplier must notify the Purchaser immediately if it cannot supply the Goods and/or Services within the time stated in the Order.

Acceptance: Following delivery, the Purchaser may inspect the Goods and/or Services and give notice in writing to the Supplier of any unsatisfactory or defective Goods or Services. Any noncomplying Goods may be returned by the Purchaser to the Supplier at the Purchaser’s expense. The Purchaser’s acceptance of delivery or payment for the Goods and/or Services prior to the Supplier’s inspection will not be construed as an acceptance of the noncomplying Goods and/or Services.

Risk and title: Any risk associated with the Goods and/or services is transferred when the Goods and/or Services pass to the Purchaser in accordance with these Terms. Title in the Goods passes to the Purchaser upon delivery of the Goods and/or Services. The risk associated with the Goods and/or Services delivered by the Supplier must be free from all encumbrances and all other adverse interests (including any Security Interest, as that term is defined in the PPSA) arising in respect of that taxable supply and that amount is payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is to be paid or provided. A party’s right to payment under these Terms is subject to a valid tax invoice being delivered to the party who is the recipient of the taxable supply. To the extent that one party is required to reimburse another party for costs incurred by the other party, those costs do not include any amount of GST in respect for which the party is entitled to claim as an Input Tax Credit.

Warranty: The Supplier warrants and represents that: (a) the Goods are free from all charges and encumbrances and all other adverse interests (other than encumbrances which will be released at or before the time title in the Goods passes to the Purchaser) and that the Purchaser will enjoy quiet possession of the Goods; (b) the Goods are and will remain free from any Security Interest (as that term is defined in the PPSA); (c) the Goods will be of merchantable quality and fit for any purpose which is made known to the Supplier by the Purchaser or for which the Goods are customarily supplied; (d) the Goods will be free from defects in design, material and workmanship; (e) where the Goods are supplied by reference to a sample or description, that the Goods will correspond with the sample or description; (f) where applicable, the Goods will have an appropriate proportion of their standard shelf life remaining on delivery to the Purchaser; (g) the Goods and/or Services comply with the specifications contained in the Purchase Order and with all other specifications supplied by the Purchaser in connection with the Goods and/or Services; (h) the Goods and/or Services do not infringe any Intellectual Property Rights of any other person; (i) the Goods and/or Services will comply with all Applicable Laws, rules, statutes and other legal requirements; (j) the Supplier and its Personnel are qualified to provide the Services; (k) the Supplier and its Personnel are skilled in the performance of the Services; (l) the Supplier has and will continue to have the technical, professional and other skills, experience and qualifications necessary for the performance of the Services; (m) the Supplier holds and will comply with all necessary licences, permits and other approvals required for the manufacture, packaging, supply and storage of the Goods and/or Services; (n) the Supplier and its Personnel are entitled to receive payment for the supply of the Goods and/or Services; (o) the Supplier and its Personnel are entitled to receive and conduct business on terms and conditions which are fair and equitable; (p) the Supplier and its Personnel are entitled to receive payment for the supply of the Goods and/or Services and the Procurement of the Services by the Supplier; and (q) the Supplier and its Personnel are entitled to receive payment for the supply of the Goods and/or Services.
return them to the Supplier at the Supplier’s own risk and expense; (iii) require the repayment of any payment made by the Purchaser in relation to undelivered, rejected and/or returned Goods and/or Services; (iv) require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods; (v) require the Supplier to re-perform the rejected Services, or to provide a full refund of the price of the rejected Services; (vi) require the Supplier to pay for any period of time that the Goods and/or Services are not supplied in accordance with these Terms; (vii) refuse to accept any subsequent delivery of the Goods and/or Services, which the Supplier attempts to make or do; (viii) recover from the Supplier any costs the Purchaser incurs in obtaining substitute Goods and/or Services from a third party less any amount refunded by the Supplier; and (ix) claim damages for any other costs, loss or expenses the Purchaser incurs which are in any way attributable to the Supplier’s failure to comply with condition 12(a) or 12(b).

13. Indemnity: The Supplier indemnifies the Purchaser and must keep the Purchaser’s Representatives indemnified against all losses, liabilities, costs, damages, charges and expenses suffered or incurred by the Purchaser arising out of or in connection with: (i) a breach by the Supplier of these Terms or any Applicable Law; (ii) any defect in the Goods or Services, any death or injury to a person, or any loss or damage to the Purchaser’s or a third party’s real or personal property, caused by the Supplier’s act or omission; or (iii) any infringement of the Purchaser’s or any claim that the Goods or Services infringe a third party’s Intellectual Property Rights.

14. Limitation of Liability: To the extent permitted by law, in no event will the Purchaser be liable to the Supplier for any economic loss, indirect, special, consequential, general or other similar damages, arising out of any breach of these Terms or any Order immediately after the Supplier has given notice in writing if: (a) the Supplier is in breach of any of these Terms; (b) the Goods and/or Services are delivered after the last date specified for delivery in an Order; (c) the Goods and/or Services are not supplied in accordance with the Order; (d) the supplier of Goods and/or Services by the Supplier is, in the Purchaser’s reasonable opinion, unreasonable; (e) the Supplier has, in the Purchaser’s reasonable opinion, not supplied in accordance with the Order; (f) the Supplier’s act is in breach of any other agreement it has with the Purchaser; (g) an Insolvency Event occurs in relation to the Supplier; or (h) the supplier sells, or agrees to sell, its business. The Purchaser may terminate these Terms without cause, upon 30 day’s written notice to the Supplier.

15. Insurance: The Supplier must maintain appropriate product liability insurance cover for personal injury and property damage caused by the Goods and/or Services in an amount not less than AU$2,000,000 per incident, per person, or per occurrence, as agreed in writing by the Purchaser for any one claim with a reputable insurer and such other insurance cover which the Purchaser reasonably considers necessary, or which the Purchaser may require by Applicable Laws and in any event for a minimum period of 7 years.