



GENERAL PURCHASE TERMS & CONDITIONS

These general purchase and delivery terms ("Terms") shall be applicable to all purchase transactions between the Seller and the Purchaser in addition to the terms and conditions set out in the relevant Purchase Order (as defined below).

1. Definitions

The following words used herein shall have the following meanings unless the context otherwise requires:-

"Intellectual Property" means intellectual property rights including, without limitation, all patents, registered designs, copyrights, database rights, design rights, semiconductor chips, topography rights, trademarks, service marks, trade secrets, confidential information and rights in unpatented know-how and any other proprietary right or form of intellectual property (whether protectable by registration or not);

"Price" means the price of the Products as specified in the Purchase Order;

"Products" means the products supplied by the Seller as specified in the Purchase Order;

"Purchase Order" means the purchase order issued by the Purchaser and accepted by the Seller relating to the purchase of the Products by the Purchaser;

"Purchaser" means Olam Orchards Australia Pty Ltd ACN 139 442 532;

"Seller" means the vendor or supplier to whom the Purchase Order has been issued by the Purchaser relating to the purchase of the Products by the Purchaser; and

"Specifications" means the quality, quantity, packing and any other specifications relating to the Products as set out in the Purchase Order.

2. General

2.1 The Purchaser agrees to buy and the Seller agrees to sell the Products in accordance with these Terms and the terms set out in the relevant Purchase

Order. No offer to sell or supply any Products shall be binding upon the Purchaser unless a Purchase Order has been issued by the Purchaser.

2.2 The Seller acknowledges that the Seller has read and understands these Terms and the Seller acknowledges and agrees that all orders placed by the Purchaser are subject to these Terms.

2.3 The Purchaser's agents and/or representatives have no authority to make any oral representations, statements, warranties, conditions or agreements that conflict with these Terms or the terms of the Purchase Order.

2.4 The Seller shall supply the Products to the Purchaser in accordance with the Purchaser's orders in accordance with these Terms and the terms of the Purchase Order. Each order for Products (whether or not subject to the same Purchase Order) shall constitute a separate contract, and any default or cancellation by the Purchaser in relation to the payment or otherwise of any one order shall not entitle the Seller to treat any other order for Products as terminated or cancelled.

2.5 All Products supplied by the Seller pursuant to these Terms and the Purchase Order shall conform in all respects to the Specifications.

2.6 The Seller shall at its own expense be responsible for obtaining and maintaining in force all licences, permits, consents, approvals, certificates, registrations and authorisations or other requisite documents as required by any law, if any, from appropriate federal, state, municipal or other governmental or administrative bodies, to permit the supply of the Products to the Purchaser as contemplated by these Terms.

3 Payment

- 3.1 The Purchaser agrees to pay the price for the Products as set out in the Purchase Order.
- 3.2 All payments made by the Purchaser to the Seller shall be in Australian Dollars and where a supply made by the Seller is subject to Goods and Services Tax ("GST") as defined by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*, the Purchaser will upon receipt of a valid tax invoice pay, in addition to any other consideration payable as specified in the Purchase Order, an amount equal to GST on that supply. All other taxes payable in Australia shall be the liability of the Seller.
- 3.3 All payments by the Purchaser to the Seller shall be made in the manner and by the date specified in the payment terms as specified in the Purchase Order or as agreed by parties as part of the credit account provided to the Purchaser by the Seller (as the case may be).
- 3.4 Subject to clause 3.1, the price set forth in the Purchase Order is firm and is the total amount due from the Purchaser for the Products, including without limitation, duties, taxes or any other charges agreed upon by Purchaser, subject to adjustment for any rebates or credits described herein. The Purchaser shall not be responsible for any amount above the total amount expressly stated in the Purchase Order.

The Seller shall not add any charges or expenses payable by the Purchaser under the Purchase Order without the Purchaser's prior written consent.

- 3.5 Invoices shall be submitted to the Purchaser upon receipt of the Products by the Purchaser. Payment for all undisputed amounts shall be made as per the terms and conditions set out on the Purchase Order. If the Purchaser has a claim against the Seller resulting from the Purchase

Order or any other transaction, the Purchaser shall be entitled to deduct or set off the disputed amounts from the Seller's claims for amounts due.

For the purposes of this clause, the parties acknowledge that invoices and receipts for invoices shall not be issued by the Purchaser prior to the Purchaser's receipt of the applicable Products. In the event an invoice arrives prior to the Purchaser's receipt of the applicable Products, the Purchaser's payment period shall not begin until the date of the Purchaser's receipt of the applicable Products.

4 Delivery

- 4.1 The Seller shall deliver the Products in accordance with the delivery terms specified in the Purchase Order.
- 4.2 Time is of the essence under these Terms and the terms of the Purchase Order. If the Products are not delivered by the date, if any, stated in the Purchase Order, the Purchaser may, without liability and in addition to its other rights:
 - 4.2.1 terminate or reschedule the order for the Products by notice to the Seller; and/or
 - 4.2.2 buy substitute Products elsewhere and charge the Seller for costs incurred for all or part of the price for the substitution of the Products.
- 4.3 The Purchaser shall issue delivery instructions to the Seller to allow the Seller to deliver the Products based on the terms as specified in the Purchase Order.
- 4.4 The Seller shall prepare and pack the Products in accordance with usual commercial and industry practices. The Purchaser will not pay charges for packing, crating, shipping or delivery, unless otherwise stated in the Purchase Order. If the Seller delivers the Products in a more expensive manner than as specified in the Purchase Order to comply



with the Purchaser's required delivery date, the Seller shall pay all increased costs, unless the Purchaser solely causes the necessity for and agrees in writing to pay such increased costs.

5 Purchaser's Rights

- 5.1 The Purchaser's inspection, testing, payment or use of the Products shall not constitute acceptance thereof and shall not affect the Seller's obligations and warranties set forth herein, which shall survive the Purchaser's inspection, testing, acceptance and/or use. Nothing contained in these Terms shall relieve the Seller in any way from its obligations to test, inspect and control the quality of the Products. The Purchaser may reject or revoke acceptance of any Products that are, in the Purchaser's judgment, defective and/or do not conform to the terms of the Purchase Order ("non-conforming Products") at any time.
- 5.2 In addition to any other rights available to the Purchaser, upon the Purchaser's rejection or revocation of acceptance of the Products or the Seller's failure to meet the terms of the Purchase Order in whole or in part, the Purchaser shall, in its sole discretion, direct the Seller to, at the Seller's sole cost and expense:
 - 5.2.1 refund to the Purchaser the price of such Products as well as any costs incurred by the Purchaser in relation thereto; or
 - 5.2.2 upon a written replacement order from the Purchaser, replace or correct any such Products at no additional cost to the Purchaser within seven (7) days of the Purchaser's demand; or
 - 5.2.3 credit the Purchaser's account with an amount equal to the amount paid for such Products, as well as any costs incurred by the Purchaser in relation thereto. The Purchaser may also choose to replace any non-

conforming Products from any other source, and the Seller will reimburse the Purchaser for any incremental costs incurred by the Purchaser in connection therewith.

- 5.3 In addition, the Purchaser may, at the Seller's risk, return to the Seller non-conforming Products supplied in excess of quantities ordered and may charge the Seller for all expenses related thereto. If the Seller fails to take any of the corrective actions described herein, the Purchaser, upon notice to the Seller, may take such action and charge the Seller for all costs incurred by the Purchaser in relation thereto. Unless specified otherwise, all Products delivered hereunder shall not be in excess of the quantity ordered.
- 5.4 The Purchaser may, at any time prior to delivery, upon reasonable notice to the Seller, change the specifications for the Products and delivery thereof. The Seller will accept any changes, so far as the Seller is capable of meeting such changes, provided that if a change increases or decreases the cost or time required for performance, the parties will equitably adjust and modify the terms hereof in writing accordingly. The Seller shall inform the Purchaser in advance of any material change, intentional or otherwise, to the Products, including without limitation, changes in composition, quality specifications, manufacturing processes, labelling, functionality, safety, manufacturing locations, and any suppliers or subcontractors. Upon notice of any change, the Purchaser may cancel the Purchase Order.
- 5.5 Any revisions to the Purchase Order, price or otherwise, must be in writing and approved by the Purchaser.

6 Title to Products

- 6.1 Risk (but not title) in respect to the Products passes to the Purchaser immediately upon delivery to the Purchaser.
- 6.2 Title in the Products shall pass to the Purchaser once the Purchaser has paid the invoice in full.
- 7 Warranties and limitations of liability
- 7.1 The Seller agrees to supply the Products detailed in a Purchase Order.
- 7.2 In addition to the Purchaser's rights under statutory consumer protection laws, including the *Competition and Consumer Act 2010* (Cth), the Seller hereby represents and warrants to the Purchaser, its successors, assigns, customers, and users of the Seller's Products, that all the Products shall:
- 7.2.1 Match the description of the Products ordered;
- 7.2.2 conform to the terms of the Purchase Order and the Specifications and/or all applicable samples, drawings, standards, specifications, performance criteria and any other description requested, furnished or provided to or adopted by the Purchaser;
- 7.2.3 match the quantity of the Products ordered;
- 7.2.4 be free from defects in material and workmanship;
- 7.2.5 be of acceptable and merchantable quality, safe and appropriate for the purpose for which Products of this kind are normally used;
- 7.2.6 together with their packaging, labelling and accompanying materials be properly contained, packaged, marked and labelled;
- 7.2.7 be fit for the particular purpose for which Purchaser intends to use the Products;
- 7.2.8 meet any additional standards, quality or other criteria as required by the Purchaser from time to time and agreed in writing by the Seller; and
- 7.2.9 not infringe the rights of any third parties.
- 7.3 In addition, the Seller shall comply and the Products shall comply and/or be performed in compliance with all applicable federal, state and local laws, ordinances, orders, rules, actions, regulations and industry standards.
- 7.4 The Seller further warrants and represents that no liens, encumbrances, security interests, or other third party claims shall attach to any Products and that the Seller has all right, title and interest in the Products to allow the products to be sold to the Purchaser.
- 7.5 If there are any damages or defects that had occurred to the Products prior to their delivery to the Purchaser, the Seller shall replace such damaged or defective Products.
- 8 Indemnification
- 8.1 The Seller, its parents and affiliates shall defend, indemnify and hold the Purchaser and its officers, employees, agent and servants harmless from and against any and all claims, demands, actions, causes of action, proceedings, judgments and other liabilities, obligations, losses, damages (both direct and indirect losses/damage), costs and expenses (including reasonable legal fees and costs) of any nature (collectively, the "Claim") to the extent they are due to or arise from:
- 8.1.1 the breach of any representation, warranty or obligation contained in these Terms and/or the Purchase Order by the Seller;
- 8.1.2 the sale or supply of the Products to the Purchaser by the Seller under these Terms and/or the Purchase Order;
- 8.1.3 the use or application of the Products by the Purchaser;

- 8.1.4 the Products failing to perform in accordance with the Seller's instructions regarding timing, rate, technique or otherwise for the use/application of the Products;
 - 8.1.5 the negligence or wilful misconduct of the Seller or any of its directors, officers, employees, or agents;
 - 8.1.6 alleged patent, copyright, trademark, trade secret or other intellectual property right infringement; and
 - 8.1.7 any defects in or contamination of the Products sold or supplied to the Purchaser by the Seller and/or any other product liability relating to the same.
- 8.2 The foregoing indemnification obligations shall not apply to the extent the Claim is due to or arises from the gross negligence or wilful misconduct of the Purchaser.
- 9 Non-Disclosure of information
- 9.1 The Seller, its employees, agents and representatives, shall consider as the Purchaser's "Confidential Information", all non-public information provided by the Purchaser, all specifications or other documents prepared by the Seller in connection herewith, the fact that the Purchaser has contracted to purchase the Products from the Seller, and all other non-public information relating to the Purchase Order.
- 9.2 The Seller agrees with and undertakes to the Purchaser that it shall not, without the prior written consent of the Purchaser:
- 9.2.1 disclose or use the Confidential Information for any purpose other than performing the Purchase Order;
 - 9.2.2 announce, publicise or discuss with third parties the subject matter of the Purchase Order;
 - 9.2.3 include the Purchaser's name or trademarks in any marketing materials; or
 - 9.2.4 disclose that the Purchaser is the Seller's customer.
- 9.3 The foregoing provisions shall be subject to the terms of any other written agreement executed by the parties relating specifically to confidentiality, non-disclosure and/or publicity.
- 10 Termination
- 10.1 Upon notice to the Seller, the Purchaser may terminate the Purchase Order/Confirmation or any part hereof, at any time prior to any delivery hereunder, solely for its convenience, and in such case the Purchaser will only pay the Seller an amount equal to a percentage of the purchase price reflecting the amount of Products delivered to the Seller. Upon receipt of Purchaser's notice, the Seller shall immediately stop and cause all suppliers and subcontractors to stop all performance hereunder.
- 10.2 In addition to the Purchaser's other rights and without liability, upon notice to the Seller, the Purchaser may terminate the Purchase Order, or any part hereof, for cause in the event of any default by the Seller of the terms or conditions of the Purchase Order, including, without limitation, no delivery, late delivery, delivery of nonconforming or defective goods, and/or the Seller's failure to provide the Purchaser, upon request, with reasonable assurances of future performance.
- 10.3 The Purchaser may also terminate for cause hereunder if the Seller fails any quality requirements, including, but not limited to, audits and inspections by Purchaser, a third party or the government or any governmental agency.
- 10.4 The Purchaser may also terminate for cause hereunder if any Controller, Receiver, Receiver and Manager,

Voluntary Administrator, Provisional Liquidator, Liquidator or Trustee in Bankruptcy is appointed to the Seller. Upon receipt of the Purchaser's notice of termination, the Seller shall immediately stop and cause all suppliers and subcontractors to stop all performance hereunder.

11 Insurance

- 11.1 The Seller shall maintain insurance coverage for the minimum amounts in relation to the following areas:
- 11.1.1 Product Liability Insurance – for a minimum amount of \$10,000,000 for each occurrence of accidental contamination, malicious product tamper or product extortion;
- 11.1.2 Public Liability Insurance – for a minimum amount of \$20,000,000 for each occurrence.
- 11.2 At the Purchaser's request, the Supplier shall provide copies and proof of the currency of the insurance policies referred to above.
- 11.3 If required by the Purchaser, the Seller shall add the Purchaser as an additional insured to the above policies.

12 Technical Advice

- 12.1 The Seller shall provide the Purchaser with such technical advice and directions relating to the Products as may be necessary or useful to the Purchaser in respect of the use or application of such Products, and acknowledges that the Purchaser purchases the Products on the basis that the Products perform in accordance with the technical advice and directions provided by the Seller to the Purchaser.

13 Force Majeure

- 13.1 The Purchaser shall not be considered to be in default in the performance of its obligations under the Purchase Order, to

the extent and for the period of time that performance of any such obligation is prevented, interrupted, or delayed by fire, flood, earthquake or other natural disaster, strike, riots, governmental regulations restricting normal operations, war or other cause, which is beyond the reasonable control of Purchaser ("Force Majeure Event").

If the Force Majeure Event causes an extension of delivery time such that the use of Products is not possible, the Purchaser may terminate this Purchase Order.

- 13.2 If the delivery of the Products is delayed or expected to be delayed by reason of any Force Majeure Event, the Seller must promptly inform the Purchaser of any such delay or expected delay and then the time for delivery of the Products may be extended by the Purchaser by a period of time equal in length to the period of such delay.

14 GST

- 14.1 Unless otherwise stated, the price is GST exclusive.
- 14.2 In addition to the price for the Products, the Purchaser shall pay to the Seller an amount equal to any GST the Seller must pay for any supply by the Seller under these Terms.
- 14.3 The Purchaser must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Seller pays the price (or the corresponding first part of it if the Seller agrees to the Purchaser paying the price by instalments).

15 Miscellaneous

- 15.1 These Terms shall be and are to be construed in accordance with the laws of Queensland and the Seller hereby submits

to the non-exclusive jurisdiction of the Queensland courts.

15.2 The parties will attempt in good faith to promptly resolve any dispute arising out of these Terms and/or the Purchase Order by negotiations between representatives who have authority to settle the controversy.

If unsuccessful, the parties shall engage in non-binding third-party mediation, with fees and expenses of such mediation apportioned equally to each side provided, however, that no party is required to mediate any dispute in case of irreparable harm or if there is a threat to public health or safety by continuing performance under these Terms and/or the Purchase Order.

15.3 Except as provided herein or as otherwise agreed upon by the parties in a separate agreement relating to the subject matter hereof, these Terms and the terms in the Purchase Order set forth the entire agreement and understanding between the parties hereto in connection with the subject matter herein and supersedes and cancels in all respects all previous agreements and undertakings among the parties hereto in relation to such matters, whether written or oral.

15.4 It is agreed that if any provision of these Terms should be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof and each such other provision shall remain in full force and effect.

15.5 Any waiver of any breach of these Terms and the terms in the Purchase Order shall not be deemed to apply to any succeeding breach of the provision or of any other provision of these Terms and the terms in the Purchase Order. No failure to exercise and no delay in exercising on the part of any of the parties any right, power or

privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

15.6 The obligations or responsibilities contained in these Terms or in the Purchase Order which are continuing in nature shall survive the expiration or termination of these Terms and the Purchase Order. The rights and remedies provided in these Terms and the terms in the Purchase Order are cumulative and not exclusive of any rights or remedies otherwise available (whether at law or in equity) to the parties hereto.

15.7 Nothing herein shall constitute a partnership or establish a relationship of agent or any other relationship of a similar nature between or among the parties hereto.

15.8 Seller may not assign, delegate or sub-contract its rights or obligations under the Purchase Order without the express written consent of Purchaser. These Terms and the terms in the Purchase Order shall inure to the benefit of and be binding upon the parties hereto and to their respective successors and legal representatives. Nothing herein is intended to confer any rights or remedies on any persons other than the parties to it and their respective successors and permitted assigns.

15.9 Nothing herein is intended to relieve or discharge the obligation or liability of any third persons to any party hereto.

15.10 No purported variation of these Terms and/or the terms in the Purchase Order shall be effective unless made in writing signed by the parties.

15.11 In the event of a conflict between, or limitation arising under, any of the terms of the Purchase Order and the terms of any of Seller documents or



proposals, including any Seller attachment, schedule or document incorporated by reference to the Purchase Order, the terms of the Purchase Order shall prevail.

16 Intellectual Property

16.1 Where the Purchaser supplies or provides the Seller with any artwork, documents or materials containing the Purchaser's Intellectual Property, the Seller acknowledges that the Purchaser is the exclusive owner and retains ownership of all Intellectual Property rights including but not limited to all Intellectual Property in the artwork, documents or materials provided to the Seller. The Seller further agrees not to assert any claim to this Intellectual Property or claim any interest in the Intellectual Property belonging to the Purchaser nor will it in any way attempt to or allow the copying or reverse engineering of the Intellectual Property belonging to the Purchaser except with the prior written consent of the Purchaser.

16.2 All brochures, manuals and other literature provided by the Purchaser to the Seller remain the property of the Purchaser and shall be held in confidence by the Seller.