

MEMORANDUM OF AGREEMENT IN
RESPECT OF PRECISION FARMING
SOFTWARE

Entered into by and between:

YARA AFRICA FERTILIZER (PTY) LIMITED
REGISTRATION NUMBER: 2011/003434/07

Herein duly authorised represented by _____

(Hereinafter referred to as “Yara”)

AND

The entity or person with the particulars as stipulated in
clause 1 of Annexure “A” hereto

(Hereinafter referred to as “the Customer”)

WHEREAS Yara is involved in the blending, bagging, distribution and selling of fertilizer products;

WHEREAS the Customer is an agricultural producer;

WHEREAS the Software has been developed to assist agricultural producers with precision farming;

WHEREAS the parties agree to the sub-licensing of the Software, subject to the provisions of this Agreement; and

WHEREAS the parties are desirous of reducing their agreement to writing;

NOW THEREFORE THE PARTIES FURTHER AGREE AS FOLLOWS:

INTERPRETATION AND DEFINITIONS

1.

1.1 In this agreement:

1.1.1 clause headings are inserted for purposes of convenience and reference only and shall not be used in the interpretation of this agreement, nor modify nor amplify any of its provisions;

1.1.2 the parties shall, wherever necessary or appropriate, be referred to by their defined designations, either as on page 1 or clause 1.2 below;

1.1.3 a reference to:

1.1.3.1 any particular gender shall include the other two genders;

1.1.3.2 the singular shall include the plural and *vice versa*; and

- 1.1.3.3 a natural person shall include a juristic person (whether a corporate or unincorporated created entity) and *vice versa*;
- 1.1.4 words and/or expressions defined in this agreement shall bear the same meanings in any annexures hereto which do not contain their own defined words and/or expressions;
- 1.1.5 where a period consisting of a number of days is prescribed, it shall be determined by excluding the first and including the last day;
- 1.1.6 where the day upon or by which any act is required to be performed is not a business day, the parties shall be deemed to have intended such act to be performed upon or by the first business day thereafter;
- 1.1.7 where an expression has been defined (whether in clause 1.2 below or elsewhere in this agreement) and such definition contains a provision conferring a right or imposing an obligation on any party, then notwithstanding that it is contained only in a definition, effect shall be given to that provision as if it were a substantive provision contained in the body of this agreement;
- 1.1.8 if figures are referred to in numerals and words, the words shall prevail in the event of any conflict between the two;
- 1.1.9 words and/or expressions defined in any particular clause in the body of this agreement shall, unless the application of such word and/or expression is specifically limited to that clause, bear the meaning so assigned to it throughout this agreement;
- 1.1.10 the *contra proferentum* rule shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the party responsible for the drafting or preparation of such provision;

- 1.1.11 the *eiusdem generis* rule shall not apply and accordingly, whenever a provision is followed by the word “including” and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned;
- 1.1.12 a reference to any statutory enactment (including statutes, ordinances, regulations and by-laws) shall be construed as a reference to that enactment as at the signature date and as amended or re-enacted or substituted from time to time thereafter;
- 1.1.13 a reference to any statutory body or court shall be construed as a reference to that statutory body or court as at the signature date and as substituted from time to time thereafter by successor statutory bodies or courts, as the case may be;
- 1.1.14 a reference to any legal principle, doctrine or process under the South African law shall include a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this agreement may apply or to the laws of which a party may be or become subject;
- 1.1.15 unless specifically provided to the contrary, all amounts referred to in this agreement are exclusive of VAT; and
- 1.1.16 the expiration or termination of this agreement shall not affect such of its provisions which expressly provide that they will continue to apply after such expiration or termination or which of necessity must continue to apply after such expiration or termination.
- 1.2 In this agreement, unless the context indicates otherwise, the following words and expressions shall bear the meanings assigned to them hereunder and cognate expressions shall bear corresponding meanings:

- 1.2.1 “this Agreement” – means this agreement entered into by and between Yara and the Customer including the annexures thereto;
- 1.2.2 “Yara” – means Yara Africa Fertilizer (Pty) Limited with registration number: 2011/003434/07;
- 1.2.3 “the Customer” – means the entity or person with the particulars as stipulated in clause 1 of Annexure “A”;
- 1.2.4 “the Software” – means the software as described in Annexure “B”;
- 1.2.5 “the Licensor” – means the third party who sub-licensed the Software to Yara, *inter alia* for purposes of concluding this Agreement;
- 1.2.6 “Intellectual Property” – means, in respect of Yara, all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including all copyright and similar rights which may subsist or may hereafter subsist in works or any subject matter, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs (whether or not registerable), rights in relation to registered or unregistered trade marks, service marks, trade names, domain names, logos, get-up, patents, provisional patents, inventions (whether patentable or not), know-how (including confidential industrial and commercial information and techniques in any form), utility models, registered and unregistered design rights, copyright, semi-conductor topography rights, source codes, database rights, and all similar proprietary rights which may subsist in any part of the world, as well as any confidential information or processes relating to that subject matter;
- 1.2.7 “Initial Period” – means the period of 3 years commencing from the Effective Date;

- 1.2.8 “the Effective Date” – means the date as stipulated in clause 2 of Annexure “A”;
- 1.2.9 “the Software Fee” – means the fees and expenses referred to in clause 4;
- 1.2.10 “the Parties” – means Yara and the Customer; and
- 1.2.11 “Confidential Information” – means the confidential information described in clause 6.

THE GRANTING OF THE SUB-LICENSE TO THE CUSTOMER

2.

- 2.1 Yara hereby grants to the Customer a non-transferrable right and license to utilise the Software subject to the provisions of this Agreement.
- 2.2 It is specifically agreed that compliance by Yara with their obligations in terms of this Agreement will always be subject to and dependant on compliance by the Licensor of their obligations in terms of all the agreements concluded between Yara and the Licensor. For the avoidance of doubt, Yara will not be liable to perform any of their obligations in terms of this Agreement, should the Licensor not comply with their corresponding obligations.
- 2.3 Yara will, for the duration of this Agreement, allow the Customer access to the Software, consisting of the base functionality and the premium products, if any, as described in Annexure “B” hereto, subject to payment by the Customer of the Software Fee. Should Yara elect to procure the utilisation of any further premium products developed by the Licensor or should Yara develop any premium products, the Customer will have an option to utilise the same at the remuneration as stipulated on Yara’s list prices referred to in clause 4.1.

TRAINING AND ASSISTANCE

3.

3.1 Yara will, with effect from the Effective Date, attend to the training of the Customer and their nominated representatives. Such training will include:

3.1.1 Yara presenting one training session to the Customer's nominated representatives, which will be held at a destination to be determined by Yara; and

3.1.2 Yara will provide digital copies of the training material furnished by the Licensor; and

3.1.3 Any additional training that might be required by the Customer will be conducted by either Yara or the Licensor, at Yara's discretion, in which event the remuneration as referred to in clause 4 will be payable.

REMUNERATION

4.

4.1 The prices payable for the utilisation of the Software shall be Yara's list prices in respect thereof ruling at the date on which Yara invoices the Customer, unless the parties reach an agreement in writing, duly signed by both parties, with regard to any discount on such list price. The said prices exclude additional training referred to in clause 3.1.3, which remuneration shall be Yara's list prices in respect thereof ruling at the date on which Yara invoices the Customer.

4.2 The Customer confirms that he/she/it will consider the prices referred to in clause 4.1 prior to the Customer utilising the Software and/or undergoing any additional trading as referred to in clause 3.1.3.

- 4.3 It is specifically agreed and confirmed that the Customer shall not be obliged to utilise the Software and/or undergo any additional training should the Customer not be agreeable to the Software Fee and/or the fee in respect of additional training referred to in clause 4.1. Should the Customer utilise the Software and/or undergo any additional training, the following shall be applicable:
- 4.3.1 The Customer will, prior to such utilisation and/or training, consider the list prices referred to in clause 4.1; and
- 4.3.2 The Customer will pay the Software Fee and the training fee referred to in clause 4.1 to Yara.

FEES AND PAYMENT

5.

- 5.1 The Software Fee exclude Value Added Tax.
- 5.2 Yara shall submit an original Value-Added Tax invoice to the Customer not later than the fifth (5) business day of the month following on the month in respect whereof the applicable compensation is payable. An invoice submitted by Yara shall be accompanied by the following information:
- 5.2.1 The names and addresses of Yara and the Customer.
- 5.2.2 The date of invoice.
- 5.2.3 An invoice number.
- 5.2.4 The Value-Added Tax registration number of Yara.
- 5.2.5 A description of the items invoiced.
- 5.2.6 The price and VAT.
- 5.3 The invoices shall be transmitted to the email address as stipulated in clause 3 of Annexure "A".

- 5.4 The Customer shall pay Yara on the last day of the month during which such invoice has been transmitted to the Customer. Payment shall be made by means of electronic transfer into Yara's bank account, the particulars of which Yara will furnish.
- 5.5 The Customer shall not be liable to off-set any payments due under this Agreement against any payment allegedly due by Yara.

CONFIDENTIAL INFORMATION

6.

6.1 Each party shall keep confidential (i) the terms and conditions of this Agreement, but not its existence, and (ii) all other information which is disclosed, designated in writing or reasonable ought to be considered as confidential by one party to the other. Information which is disclosed orally will be deemed to be confidential information providing that it is identified as confidential at the time of disclosure and that the disclosing party, within twenty-one days after such disclosure, provides to the receiving party such information or a summary or description thereof in writing designed as confidential.

6.2 Each party agrees that it will not permit the disclosure or use of any confidential information to or by any person, other than the Customer's or Yara's employees or consultants who are bound by similar restrictions of confidentiality without the prior written consent of the other and in any event only for fulfilling its rights and obligations under this Agreement. Each party shall use the same care to keep the other party's confidential information secure from unauthorised access as it would its own confidential information of like kind, but in any case, a minimum of reasonable care

6.3 Without granting any right or license, the provisions of this clause 6 shall not apply to any information which:

- 6.3.1 is in or comes into the public domain without breach of this Agreement; or
 - 6.3.2 was in the possession of the receiving party prior to receipt from the disclosing party without an obligation of confidence; or
 - 6.3.3 was obtained from a third party free to divulge such information; or
 - 6.3.4 is independently developed by the receiving party without any use of the disclosed confidential information.
- 6.4 The Customer agrees that it shall not itself or through any subsidiary, agent or third party adapt, copy, sell, lease or license, or have any software or data written or developed for any third party, based on any confidential information supplied to it by Yara.
- 6.5 Nothing in this Agreement shall be construed to convey any title or ownership right to either party to the other party's confidential information.
- 6.6 Neither party shall be liable for disclosure of the other party's confidential information if and to the extent required by law or made in response to a valid order of a court, or authorised agency of government to which that party is subject or submits, provided that notice is promptly given to the other party so that a protective order may be sought, and other efforts employed to minimise the required disclosure. The recipient shall cooperate with the disclosing party in seeking the protective order and engaging in such other efforts.
- 6.7 Each party acknowledges that any breach of this clause 6 would cause the non-breaching party immediate and irreparable injury for which financial compensation would not be sufficient and that the disclosing party shall be entitled, in addition to any other remedies available at law or in equity, to interim and permanent injunctive relief in the event the other party does not fulfil its obligations under this clause 6.

- 6.8 This clause 6 shall survive the termination of this Agreement and continue for three (3) years thereafter.

INTELLECTUAL PROPERTY RIGHTS

7.

- 7.1 The Customer acknowledges that copyright, patent and other Intellectual Property rights arising out of or related to the Software subsisting throughout the world are and shall be and remain wholly owned by, vested in and reserved to Yara and/or its Licensor. Nothing in this Agreement shall be construed to convey any title or ownership right to the Customer in or in relation to the Software or to any patent, copyright, trademark, or trade secret subsisting, embodied or contained therein.
- 7.2 The Customer agrees to include and not to alter or remove any applicable copyright, patent, trademark or other proprietary notice on all copies in whatever form of Software, software packaging or other material. The Customer shall notify Yara immediately of any knowledge or suspicion of any violations of the copyrights, trademarks or other Intellectual Property rights related to the Software.
- 7.3 The Customer acknowledges that copyright, patent and other Intellectual Property rights arising out of or related to the Software subsisting throughout the world are and shall be and remain wholly owned by, vested in and reserved to Yara and/or the Licensor. Nothing in this Agreement shall be construed to convey any title or ownership right to the Customer in or in relation to the Software or to any patent, copyright, trademark, or trade secret subsisting, embodied or contained therein.
- 7.4 The Customer shall have access to the Software for purposes of executing the provisions of this Agreement.

7.5 Upon the request of Yara, the Customer undertakes to carry out any reasonable action to assist Yara to protect its or the Licensor's Intellectual Property rights.

7.6 Any and all rights granted by Yara to the Customer under or in relation to the Intellectual Property rights of Yara will automatically terminate upon termination of this Agreement, for any reason, whatsoever.

LIABILITY AND INDEMNITY

8.

- 8.1 The Customer shall indemnify and hold Yara harmless from and against any and all damages, losses, costs, claims, expenditure and liability arising out of or related to injury or death to persons or damage to property resulting from the Customer's negligence or any negligence or wilful misconduct of the Customer, or its employees, agents or sub- contractors or fraud.
- 8.2 Yara, its affiliates, employees, agents, contractors and subcontractors and the Licensor will not be liable to the Customer for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:
- 8.2.1 use of, or inability to use, the Software; or
 - 8.2.2 use of or reliance on any content displayed on the Software.
- 8.3 Yara, its affiliates, employees, agents, contractors and subcontractors and the Licensor will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect the Customer's computer equipment, computer programs, data or other proprietary material due to the Customer's use of or downloading of any Software.

- 8.4 Yara, its affiliates, employees, agents, contractors and subcontractors and the Licensor shall further not be liable for damages resulting from the use of (or the inability to use) electronic means of communication of the Software, including, but not limited to, damages resulting from failure or delay in delivery of electronic communications, interception or manipulation of electronic communications by third parties or by computer programs used for electronic communications and transmission of viruses.
- 8.5 To the maximum extent permitted by law, Yara, its affiliates, employees, agents, contractors and subcontractors and the Licensor shall not be liable for any loss of crops, loss of profits, loss of sales, loss of business, business interruption, loss or corruption of data or information, loss of business opportunity, goodwill and/or reputation or any other damages, nor for any indirect or consequential losses, in either case arising out of or in any way connected with the provision or use and/or inability to use the Software or by way of indemnity. The foregoing limitations apply even if Yara has been notified of the possibility of such damage and notwithstanding the failure of essential purpose of any remedy. In the case of digital content, the Customer's sole remedy in case of dissatisfaction shall be to discontinue the Customer's use of digital content and request Yara to close any accounts that the Customer may have. To the maximum extent permitted by law, in the event that Yara and/or any affiliated entity is liable for the Customer's losses under mandatory law, the maximum aggregate liability of Yara and/or its affiliates under this Agreement, whether by way of indemnity or otherwise, shall be limited R100,000.00.
- 8.6 Yara disclaims all expressed and implied warranties, conditions, representations, or other terms (including as to satisfactory quality, merchantability and fitness for a particular purpose) as to the Software to the fullest extent by applicable law.
- 8.7 No representative, agent or salesmen of Yara has any authority to vary this Agreement or to make any representation on Yara's behalf. Yara will not be liable for any damages and/or losses suffered as a result of any advice and/or recommendations made by any representative of Yara to the Customer.

DURATION

9.

9.1 This Agreement will commence on the Effective Date and terminate on the expiration of the Initial Period. This Agreement may be terminated with immediate effect upon written notice, without prejudice to any other rights or remedies under this Agreement or in law, in any one of the following events:

9.1.1 by either party if the other party commits a material breach of this Agreement and fails to remedy such breach within thirty days after having been given written notice to do so; or

9.1.2 by either party if an Insolvency Event occurs with respect to the other party (where "Insolvency Event" means any of the following events: (i) any procedure commenced or steps taken with a view to the winding up of the other party, or circumstances arising which entitle a court of competent jurisdiction to make a winding-up order of the other party, (ii) any procedure commenced or steps taken with a view to the appointment of an administrator, receiver, administrative receiver or trustee in bankruptcy in relation to the other party, or any of its assets or undertakings, (iii) an administrator, receiver, liquidator, administrative receiver or trustee in bankruptcy is appointed in relation to the other party or any of the other party's assets or undertakings, or circumstances arising which entitle a court of competent jurisdiction or a creditor to make such an appointment, (iv) the other party is unable to pay its debts as they become due or makes any arrangement or composition with its creditors, or any class of them, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, (v) the holder of any security over all or substantially all of the assets of the other party takes any step to enforce that security, (vi) all or substantially all of the assets of the other party are subject to attachment, sequestration, execution or any similar process, (vii) anything

analogous to any of the events described above occurs in any jurisdiction) or (viii) if the other party is placed under business rescue; or

9.1.3 by Yara should the Customer purchase its fertilizer requirements from a competitor of Yara.

9.2 Upon the expiry or termination of this Agreement:

9.2.1 each party shall within thirty (30) days of the date of expiry or termination, return to the other or destroy all copies of Confidential Information and shall certify in writing (signed by an authorised signatory) the delivery or destruction of all such Confidential Information and copies thereof.

9.3 Subject to the Customer complying with all their obligations during the subsistence of this Agreement, the Customer will be entitled to renew this Agreement for a further period of three (3) years commencing from the first day following the expiration of the Initial Period. Should the Customer, at their discretion, elect to renew this Agreement, they will notify Yara as such in writing, not less than two (2) months prior to the Renewal Date.

9.4 Notwithstanding any provisions to the contrary hereto, it is specifically agreed that Yara will at all times be entitled to terminate this Agreement with three (3) months' prior written notice to the Customer.

FORCE MAJEURE

10.

10.1 Notwithstanding anything to the contrary herein contained, should either of the parties be prevented from fulfilling in whole or in part its obligations in terms of this Agreement, whether such prevention arises from force majeure, Act of God, war, civil commotion, pandemic, revolutions, fires, explosions, floods, political disturbances, acts of any Governmental or local authority, or any other

cause whatsoever over which that party has no reasonable control, such party shall be exempted from liability to the extent and for the period it is thereby prevented from fulfilling its obligations. The party so prevented from fulfilling its obligations hereunder shall immediately notify the other to that effect and confirm this in writing, giving a full and complete explanation of the circumstances responsible for such failure or occurrence as well as the estimated duration thereof and, if requested, the action(s) such party is taking or proposes to take to remove the said circumstances with the least possible delay as well as the action(s) to be taken to prevent future recurrences.

- 10.2 Should such occurrence continue for a period of thirty (30) days or longer, either party may terminate this Agreement or any part thereof, unless the parties agree to continue on such new terms and conditions acceptable to both parties.
- 10.3 It is specifically agreed that financial inability shall not be regarded as an event of force majeure.

ARBITRATION

11.

- 11.1 In the event of any dispute or difference arising amongst the Parties with regard to the interpretation, implementation or enforcement of this Agreement, or as to whether or not this Agreement has been terminated or is void or voidable and/or any other difference or dispute relating to or arising from this Agreement or the enforcement thereof, then such dispute or difference may, at Yara's discretion and election, (unless interim and/or urgent relief is sought from a court of competent jurisdiction) be referred for arbitration.
- 11.2 The arbitrator, in the absence of agreement between the Parties, will be appointed by the Arbitration Foundation of South Africa ("AFSA").

- 11.3 The arbitration will be conducted under the auspices and in accordance with the Commercial Rules of AFSA.
- 11.4 Notwithstanding anything to the contrary contained in this Agreement or stipulated by AFSA, the arbitration will be held in Johannesburg with a view to achieving an expeditious result. Furthermore, the arbitration will be conducted *in camera*, the Parties and the participants in the arbitration being obliged to maintain the utmost confidentiality with regard to all matters relating thereto or arising therefrom, save as may otherwise be expressly and peremptorily required by law.
- 11.5 The provisions of this clause 11:
- 11.5.1 constitute an irrevocable consent by the Parties to any of the proceedings contemplated therein and none of the Parties shall be entitled to withdraw from the provisions of this clause 11 or claim under any such proceedings that it is not bound by the provisions of this clause 11 or subject to such proceedings; and
- 11.5.2 are severable from the remainder of this Agreement and will remain of full force and effect, notwithstanding any termination, cancellation, invalidity or alleged invalidity of this Agreement for any reason whatsoever.
- 11.6 The receipt by the Customer of a notice referring a dispute or difference for arbitration in terms of this clause 11 will constitute the service of a process for the purposes of interruption of prescription in terms of Section 15 of the Prescription Act No 68 of 1969.

YARA DIGITAL FARMING TERMS AND YARA DIGITAL PRIVACY POLICY

12.

The parties specifically agree that the Yara Digital Farming Terms and the Yara Digital

Privacy Policy with the following links are incorporated to this Agreement by reference thereto:

12.1 [Yara Digital Farming Terms | Yara International](#)

12.2 [Yara Digital Farming privacy policy | Yara International](#)

Should there be any difference between the Yara Digital Farming Terms and the Yara Digital Farming Privacy Policy and this Agreement, the latter shall prevail.

BREACH

13.

13.1 Should any of the parties be in breach with any of the provisions of this Agreement, the other parties shall, without prejudice to any of their other rights, be entitled to:

13.1.1 Claim immediate performance by the breaching party as well as damages; or

13.1.2 Cancel this Agreement and claim damages from the party being in breach.

DOMICILIUM AND NOTICES

14.

14.1 The parties choose as their respective *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of payments, court process, notices or other documents or communications of whatsoever nature the following addresses:

14.1.1 Yara: Lambrecht Street

Huguenot

Paarl

- 14.1.2 the Customer: The address as stipulated in clause 4 of Annexure "A"
- 14.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if given in writing, including by facsimile and email.
- 14.3 Either party may by notice to the other change the physical address chosen as its *domicilium citandi et executandi* to another physical address, provided that the change shall only become effective upon receipt of the notice by the addressee.
- 14.4 Any notice to a party which is:
- 14.4.1 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or
 - 14.4.2 sent by email shall be deemed to have been received on the day of transmission, should this be a business day, and if not, on the following business day, unless proven otherwise.
- 14.5 Notwithstanding anything contained to the contrary herein, a written notice or correspondence actually received by a party shall be an adequate written notice or correspondence to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

DISCLOSURE OF PERSONAL INFORMATION

15.1 Both parties acknowledge and understand that the collection, collation, processing, storage and disclosure by the other party of their Personal Information will be conducted for purposes of the conclusion of and performance in terms of this Agreement, as required by the Protection of Personal Information Act 4 of 2013.

15.2 Both parties acknowledge that the other party will be obliged to disclose and divulge such information and documentation as required by law pertaining to such party, its operations and the nature of its transactions with the other party. Such disclosures will *inter alia* include the provisions of the Financial Intelligence Centre Act No 38 of 2001, Competition Act No 89 of 1998, Promotion of Access to Information Act No 4 of 2003 and other statutes from time to time.

15.3 The parties hereby consent and grant authority to the other party to conduct credit checks, searches and the like with any credit agency or party which such party may at its discretion consider expedient or necessary.

15.4 Both parties will be entitled to at all times contact and request information from any persons, credit bureaus or businesses, to obtain any information relevant to the other party's credit assessment.

15.5 Both parties agree and understand that information given in confidence to a party by a third party in respect of the other party will not be disclosed to the other party.

15.6 The parties confirm that they, contemporaneously with the signing of this Agreement, agree to and sign the DATA SUBJECT RIGHTS AND CONSENT annexed hereto as Annexure "C".

YARA'S STANDARDS OF BUSINESS CONDUCT AND CODE OF CONDUCT

16.1 The Customer confirms that they are fully aware of the contents of the Yara Code of Conduct and the Golden Rules annexed hereto as Annexures “D” and “E” and they undertake to at all times adhere thereto.

16.2 The Customer shall comply with all applicable laws, regulations, codes and sanctions relating to its operations wherever conducted, and in particular relating to human rights, bribery, corruption, money-laundering, accounting and financial controls and anti-terrorism, including the Code of Conduct for Yara’s Business Partners (the current edition of which is annexed as Annexure “F”).

16.3 The Customer warrants, agrees and undertakes that in connection with the Agreement it has not and will not make, give, offer, promise or authorize any type of bribes, “facilitation” or “grease” payments by way of improper or illegal payment, gift, advantage or other thing of value, whether directly or indirectly, to any third party.

16.4 The Customer represents and warrants that except as otherwise disclosed in writing to Yara, no Public Official or its Close Relatives are presently:

- (i) owning any Controlling interest in the Customer (directly or indirectly);
or
- (ii) has a right to any benefit if Yara enters into the Agreement with the Customer.

16.5 Yara may at any time and at its own cost and upon reasonable notice in writing perform regular integrity due diligence reviews and audits of the Customer, and its business partners who perform services or provide goods in connection with the Agreement, to ensure compliance with this clause. Subject to appropriate confidentiality procedures, the Customer shall fully cooperate with Yara in the performance of any such reviews and audits, and comply with any and all reasonable requests upon reasonable notice in writing for access to facilities, information, individuals and documentation.

16.6 The Customer shall ensure that all of its business partners who perform services or provide goods in connection with the Agreement do so only on the basis of a written contract, which imposes on and secures from such persons terms equivalent to those imposed on the Customer in this clause, including audit rights for the benefit of both Yara and the Customer. The Customer shall be responsible for reasonable and appropriate due diligence procedures prior to engaging its business partners in connection with the Agreement, and for monitoring the adherence and performance by such persons of its compliance obligations. The Customer shall be directly liable to Yara for any breach by such persons of its compliance obligations, which affects Yara.

16.7 Notwithstanding any other provision of the Agreement, Yara may, upon written notice to the Customer:

- (i) suspend payment of any fees or compensation hereunder if Yara reasonably believes that the Customer has breached or failed to properly carry out any of its obligations set out in this clause; and/or
- (ii) terminate the Agreement if the Customer has materially breached or failed to properly carry out any of its obligations set out in this clause. As agreed from time to time, the Customer shall cooperate in arranging and participating in compliance trainings, seminars and projects at their own cost. the Customer shall without undue delay report any suspected infringements of this clause to Yara.

16.8 In this Clause:

- (i) **“Close Relative”** shall mean an individual’s spouse, the individual’s and the spouse’s grandparents, parents, siblings, children, nieces, nephews, aunts, uncles, and the spouse of any of these people;

- (ii) “**Control**” shall mean the ability to direct the affairs of another person, whether by virtue of the ownership of shares, contract or otherwise; and
- (iii) “**Public Official**” shall mean anyone employed by or acting on behalf of, whether on a full or part time basis, a national, regional or local government; government owned or controlled company or other entity; employees or agents of public international organizations (such as the United Nations, European Union, World Bank and other international development organizations); political parties, political party officials and candidates for public office; and anyone else acting in an official capacity for or on behalf of a government agency or entity, including persons holding a legislative, administrative or judicial post and members of the military and police.

MISCELLANEOUS

17.

17.1 Further Assurances

The Parties hereto agree to perform any further acts and to execute and deliver any available documents, which may be necessary or appropriate to carry out the purposes and the implementation of this Agreement.

17.2 Counterparts

This Agreement may be executed in any number of counterparts and by the different Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together, shall constitute one and the same Agreement.

17.3 Whole Agreement

This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no agreement, representations or warranties between the Parties other than those set out herein are binding on the Parties.

17.4 Variation, cancellation and waiver

No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the Parties or their duly authorised representatives.

17.5 Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall, under any circumstances, be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from this Agreement or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

17.6 Severability

If any provision of this Agreement is found to be in violation with the law of the Republic of South Africa and/or is invalid and unenforceable, such provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect and the Parties shall use their best endeavours to procure that any such provision is replaced by a provision which is valid and enforceable and which gives effect to the spirit of this Agreement.

17.7 Legal Costs

17.7.1 Each party shall bear and pay its costs of negotiating, drafting, preparing and implementing this Agreement.

17.7.2 All legal costs incurred by either Party in successfully enforcing its rights against the other Party in consequence of any breach of this Agreement shall be payable by the defaulting Party, on demand, and

shall include collection charges, the costs incurred by such Party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgment awarded in favour of the successful Party in relation to its rights in terms of or arising out of this Agreement.

SIGNED at _____ on this ____ day of _____ 20____.

AS WITNESSES:

1. _____
_____ For and on behalf of Yara

2. _____

SIGNED at _____ on this ____ day of _____ 20____.

AS WITNESSES:

1. _____
_____ For and on behalf of the Customer

2. _____

ANNEXURE "A"

1. THE CUSTOMER:

Registration number: _____

or

Identity number: _____

2. THE EFFECTIVE DATE: _____

3. THE CUSTOMER'S EMAIL ADDRESS: _____

4. THE CUSTOMER'S DOMICILIUM CITANDI ET EXECUTANDI:

ANNEXURE “B”**SOFTWARE**

Schedule A: Platform definition

Technical components

The platform consists of the following technical components that together offer a multi-channel user interface to interact with the solution and deliver the functionality of the platform.

User interfaces

- Android Native app made available via the Google Play store
- IOs native APP made available via the Apple AppStore
- Web interface made available via a public assessable web URL

The platform is divided into two functional sections:

Section 1:

- Map Analysis (functionality to view uploaded maps as visual representations, based on externally produced shape files)
 - o Viewing of
 - Chemical maps (top soil and sub soil)
 - Soil Physical Characteristic maps
 - Yield maps
 - o Rainfall capturing
 - o Compare Analysis
 - o Pin Analysis (GPS based data representation)
- Virtual Consultant
- Field Admin
- Profile management

Section 2:

NDVI Imagery

- Nutrient Index maps
- Crop Growth warning model
 - Email notification
 - In-App notification
- Hotspot maps

ANNEXURE “C”**DATA SUBJECT RIGHTS AND CONSENT**

1. By signing this annexure, the Customer, herewith consents to Yara processing the Personal Information of the Customer, including special Personal Information where so required, as defined in and in accordance with both the Protection of Personal Information Act 4 of 2013 (“POPIA”), and Yara’s Privacy Policy.
2. Yara will process the Personal Information of the Customer for purposes of the performance of the Agreement to which this is an annexure and/or for purposes of the continuation of the business relationship that has been in existence or will commence. The parties irrevocably undertake to each other to comply with all applicable data protection and/or personal information in respect of their Personal Information.
3. By not providing Yara with Personal Information or by refusing to grant Yara permission to process, or continue to process the Customer’s Personal Information, the Customer will not be able to continue to render services and goods / continue to perform in terms of the Agreement/business relationship.
4. For complete details of Yara’s collection, processing, storage, and retention of Personal Information including, but not limited to details of the Customer’s rights and how to exercise them, the Customer is referred to the following link:

<https://www.yara.com/privacy-and-legal/digital-farming-privacy/digital-farming-privacy-english/#e07b61cb-ec46-4836-8db7-55472cd4681f>;
5. The Customer’s Personal Information may be shared and will only be shared with third parties as required for purposes as stated in paragraph 2 above. The Customer will ensure that such third parties comply with all applicable data protection and/or personal information legislation in respect of the Customer’s

Personal Information and have the necessary undertakings signed to comply with such data protection and/or personal information legislation,

6. The Customer's Personal Information will not be transferred to another country.
7. The Customer's Personal Information may be transferred to Yara's Head Office in Oslo Norway for purposes of the execution of the Agreement and/or the continuation of the business relationship. In such event, the Customer's Personal Information will be protected in terms of all applicable data protection and/or personal information legislation and/or Yara's internal policies (corporate rules).
8. By signing this form, the Customer consents to Yara processing the Customer's Personal Information as per above and for no other purpose.

Signed at _____ on the _____ day of _____ 2022

Witness

For the Customer duly authorised and warranting such authority

Name: _____

Designation: _____

ANNEXURE “D”**YARA CODE OF CONDUCT**

Hereby incorporated by reference into this Agreement and available at

<https://www.yara.com/siteassets/ethics-and-compliance/policies/code-of-conduct/code-of-conduct-english.pdf/>

GOLDEN RULES



Knowledge grows

Golden Rules



-  Working at Heights
-  Working with Hazardous Chemicals
-  Working with Safety-Protected Equipment, Machinery and Control Systems
-  Working on Energised Equipment
-  Working in Confined Space
-  Traffic Safety

ANNEXURE “F”**CODE OF CONDUCT FOR YARA’S BUSINESS PARTNERS**

Hereby incorporated by reference into this Agreement and available at

<https://www.yara.com/siteassets/ethics-and-compliance/policies/code-of-conduct-for-business-partners/code-of-conduct-for-yaras-business-partners---english.pdf/>