

Undertaking to the Australian Competition and Consumer Commission

Given under section 87B of the *Competition and Consumer Act 2010* (Cth) by Nutrien Ltd. and its subsidiary Agrium SP Holdings Pty Limited ACN 146 674 400

Contents

1. Person giving the Undertaking	2
2. Background	2
3. Commencement of this Undertaking	4
4. Cessation of Ongoing Obligations	4
5. Divestiture of the Divestiture Businesses	4
6. Process for approving a proposed purchaser	7
7. Divestiture Business Protection	9
8. Independent Management of the Divestiture Businesses	11
9. Independent Audit	15
10. Failure to divest the Divestiture Businesses within the Initial Sale Period .	19
11. Notification of key dates and ACCC requests for information.....	23
12. Disclosure of this Undertaking	25
13. Obligation to procure	25
14. No Derogation	25
15. Change of Control.....	26
16. Costs	26
17. Notices	26
18. Defined terms and interpretation	27
Schedule 1 – Dictionary and interpretation.....	30
Schedule 2 – Proposed Purchaser Notice Form	35
Schedule 3 – Undertaking Appointment.....	37
Schedule 4 – Divestiture Business	41
1. Introduction – the Divestiture Businesses	41
2. Alice Springs	41
3. Broome	44
4. Hughenden.....	48
Confidential Schedule 5	52

1. Person giving the Undertaking

This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by Nutrien Ltd. and its subsidiary Agrium SP Holdings Pty Limited ACN 146 674 400 (together referred to as **Nutrien** in this Undertaking).

2. Background

The parties to the proposed acquisition

- 2.1. *Acquirer*: The Acquirer is Nutrien Ltd. of 13131 Lake Fraser Drive S.E., Calgary AB T2J 7E8, Canada. Nutrien Ltd. is a global supplier of crop nutrients, inputs and services, which was formed from the merger of Agrium Inc. and Potash Corporation of Saskatchewan Inc. in 2018. Its registered head office is in Saskatchewan, Canada, and it is listed on both the Toronto Stock Exchange and the New York Stock Exchange under the ticker code NTR.
- 2.2. Agrium SP Holdings Pty Limited ACN 146 674 400 is the Australian holding company of the Landmark corporate group, and is a wholly-owned subsidiary of Nutrien Ltd. Agrium Asia Pacific Limited ACN 081 890 459 is a wholly-owned subsidiary of Agrium SP Holdings Pty Limited. Landmark Operations Limited ACN 008 743 217 (**Landmark**) is a wholly-owned subsidiary of Agrium Asia Pacific Limited. Landmark sells rural merchandise, provides agronomic and farm planning advisory services, provides wool-broking services, livestock and rural real estate agency services, and also provides insurance broking services to its customers throughout rural and regional Australia.
- 2.3. Agrium Australia Pty Ltd ACN 100 419 314 is a wholly-owned subsidiary of Agrium Inc, which holds all the shares in Agrium SP Holdings Pty Limited. Agrium Australia Pty Ltd will acquire all issued shares in the Target under the Proposed Acquisition.
- 2.4. *Target*: The Target is Ruralco Holdings Limited ACN 009 660 879 of Level 5, Building A, 26 Talavera Road, Macquarie Park NSW 2113 (**Ruralco**). Ruralco is a publicly listed company that sells rural merchandise, fertiliser and grain and provides water broking services, real estate agency services, livestock agency services, wool broking services, insurance, and design and construction services for water projects.

(together, the **Parties**)

The Proposed Acquisition

- 2.5. The Acquirer proposes, subject to regulatory approvals, to acquire all issued shares of the Target by way of a scheme of arrangement (the **Proposed Acquisition**).
- 2.6. Following completion of the Proposed Acquisition, the Target will be owned by Nutrien Ltd. and its operations will be combined with those of Landmark.

The ACCC's review

- 2.7. On 26 March 2019, the ACCC commenced its public review of the Proposed Acquisition.

- 2.8. The ACCC undertook market inquiries and considered information provided by the parties to the Proposed Acquisition, industry participants and others. The purpose of the ACCC's inquiries was to assess whether the Proposed Acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in any market in Australia in contravention of section 50 of the Act.

The ACCC's competition concerns

- 2.9. The ACCC has concluded that, in the absence of the Undertaking, the Proposed Acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in the markets for the retail supply of rural merchandise in:
- (a) Alice Springs, Northern Territory and surrounding areas;
 - (b) Broome, Western Australia and surrounding areas; and
 - (c) Hughenden, Queensland and surrounding areas;
- (each a **Local Market** and together **Local Markets**).
- 2.10. The ACCC is concerned that, in each Local Market, the Proposed Acquisition would remove one of very few competitors to Landmark in the supply of rural merchandise and therefore be likely to lead to increased prices and/or decreased service levels for consumers in those areas.

The Undertaking remedy

- 2.11. Nutrien does not consider that the Proposed Acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in any relevant market. However, to address the ACCC's competition concerns, Nutrien has offered this Undertaking pursuant to section 87B of the Act.
- 2.12. The objective of this Undertaking is to address the ACCC's competition concerns as set out above that may otherwise occur as a consequence of the Proposed Acquisition. The Undertaking aims to achieve this objective by placing obligations on Nutrien to:
- (a) ensure that each of the Divestiture Businesses are sold to an Approved Purchaser;
 - (b) create or strengthen a viable, effective, stand-alone, independent and long-term competitor in the retail supply of rural merchandise in each Local Market;
 - (c) ensure the purchaser of each Divestiture Business has all the necessary associated assets and rights to compete effectively with Nutrien in the retail supply of rural merchandise in each Local Market;
 - (d) maintain the economic viability, marketability, competitiveness and goodwill of the Divestiture Businesses prior to divestiture; and
 - (e) provide for the effective oversight of Nutrien's compliance with this Undertaking.

3. Commencement of this Undertaking

- 3.1. This Undertaking comes into effect when:
- (a) this Undertaking is executed by Nutrien; and
 - (b) this Undertaking so executed is accepted by the ACCC
- (the **Commencement Date**).

4. Cessation of Ongoing Obligations

Withdrawal

- 4.1. Nutrien may request withdrawal of this Undertaking pursuant to section 87B of the Act at any time. This Undertaking is taken to be withdrawn on the date the ACCC consents in writing to that withdrawal.

Revocation

- 4.2. The ACCC may, at any time, revoke its acceptance of this Undertaking if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.

Waiver

- 4.3. The ACCC may, at any time, expressly waive in writing any of the obligations contained in this Undertaking or extend the date by which any such obligation is to be satisfied.

Survival

- 4.4. Unless and until this Undertaking is withdrawn in accordance with clause 4.1, clauses 1, 2, 3, 4, 9, 11, 12, 13, 14, 15, 16 and 17 survive completion of the obligations in clauses 5, 6, 7, 8, 10 and Schedule 4 and Confidential Schedules as applicable.

5. Divestiture of the Divestiture Businesses

Divestiture

- 5.1. Nutrien must, in accordance with this Undertaking, divest, or cause the divestiture of, each Divestiture Business to an Approved Purchaser.
- 5.2. In the event that clause 10 applies, Nutrien must not authorise the Approved Divestiture Agent to divest any Divestiture Business to a purchaser other than an Approved Purchaser.
- 5.3. Nutrien must divest, or cause the divestiture of, each Divestiture Business by:
- (a) the sale, assignment, transfer and/or licence of all of the assets in Schedule 4 to one or more Approved Purchasers, pursuant to one or more Approved Sale and Purchase Agreements and within the Initial Sale Period, otherwise clause 10 applies;

- (b) the transfer or grant to the Approved Purchaser(s) of all Consents pursuant to clauses 5.4 to 5.5;
- (c) the transfer of any Transferred Personnel required pursuant to clauses 5.7 to 5.8;
- (d) compliance with any Approved Transitional Technical Assistance Agreement required pursuant to clauses 5.9 to 5.11; and
- (e) compliance with any Approved Transitional Supply Agreement required pursuant to clauses 5.12 to 5.14.

Consents

5.4. Nutrien must:

- (a) obtain or assist the Approved Purchaser(s) to obtain as expeditiously as possible, all Consents as required before completion of the divestiture of each Divestiture Business;
- (b) comply with all requirements necessary to obtain any Consents, including by promptly providing all information necessary for the Consents to be given;
- (c) act in good faith in its negotiations with the Approved Purchaser(s) in relation to obtaining any Consents;
- (d) promptly pay the costs and expenses of any third party reasonably incurred in providing the Consents; and
- (e) enter an agreement with the Approved Purchaser(s) which is approved by the ACCC, or vary any existing Approved Transitional Supply Agreement as required by the Approved Purchaser(s), in relation to any goods or services that are required for the operation of the relevant Divestiture Business which may be affected by any failure to gain a Consent.

5.5. If, seven Business Days before completion of the divestiture of a Divestiture Business, the relevant Approved Purchaser fails to obtain or is unable to obtain one or more Consents, then Nutrien must:

- (a) immediately provide to the ACCC in writing details of the:
 - (i) Consents that have not been obtained;
 - (ii) reasons why the Consents have not been obtained; and
 - (iii) information or material required to obtain the Consents.
- (b) continue to do everything in its power to satisfy clause 5.4 as soon as possible after the completion of the divestiture of the Divestiture Businesses (and until such time as clause 5.4 is satisfied).

5.6. Even if Nutrien has complied with clause 5.4 to 5.5, it remains a breach of this Undertaking if Nutrien is unable to effect the divestiture of a Divestiture Business by reason of a failure to obtain Consents.

Transferred Personnel

5.7. At the option of an Approved Purchaser of a Divestiture Business, Nutrien must transfer to the Approved Purchaser:

- (a) all employees of the relevant Divestiture Business; and
- (b) all service providers under a contract for service to the relevant Divestiture Business;

who are, in the view of the Approved Purchaser, required for the Approved Purchaser to maintain, operate or conduct effectively the relevant Divestiture Business and who consent to the transfer of their employment or contract for service to the Approved Purchaser (**Transferred Personnel**).

5.8. When fulfilling its obligations under clause 5.7, Nutrien must:

- (a) encourage all Transferred Personnel to remain with the relevant Divestiture Business, including offering incentives based on industry practice;
- (b) not directly or indirectly discourage any Transferred Personnel from any obligations to provide services to the relevant Divestiture Business.
- (c) effective on the date of the divestiture of the relevant Divestiture Business, release the Transferred Personnel from any obligations to provide services to Nutrien;
- (d) effective on the date of the divestiture of the relevant Divestiture Business, release the Transferred Personnel from any non-compete or similar restraint of trade obligation, to the extent that such an obligation would otherwise prevent the person from performing his or her contemplated role in relation to the relevant Divestiture Business or Unsold Business; and
- (e) not procure, promote or encourage the transfer of any of the Transferred Personnel from the Approved Purchaser to Nutrien for a period of 24 months after the completion of the divestiture of the relevant Divestiture Business.

Technical Assistance

5.9. At the option of the Approved Purchaser(s), Nutrien must supply to the Approved Purchaser(s), under one or more Approved Transitional Technical Assistance Agreement(s), any Technical Assistance that is required by the Approved Purchaser(s) in order to operate the relevant Divestiture Business.

5.10. Nutrien must ensure that any Approved Transitional Technical Assistance Agreement, and any renewal or extension of an Approved Transitional Technical Assistance Agreement, provides for the supply of Technical Assistance:

- (a) on a transitional basis for a period that is nominated by the Approved Purchasers and approved in writing by the ACCC; and
- (b) at cost and otherwise on arm's length terms.

5.11. To avoid doubt, Nutrien must seek prior written approval from the ACCC of any renewal or extension of an Approved Transitional Technical Assistance Agreement. Without limiting the ACCC's discretion, in making a decision on whether to approve a renewal or extension of an Approved Transitional Technical

Assistance Agreement, the ACCC will have regard to the criteria set out in clauses 5.9 and 5.10.

Transitional Supply Agreements

- 5.12. At the option of the Approved Purchaser(s), Nutrien must ensure the continued supply by Nutrien to the Approved Purchaser(s), under one or more Approved Transitional Supply Agreement(s), of any goods or services that are required by the Approved Purchaser(s) in order for each of the Approved Purchasers to be established as viable, effective, stand-alone, independent and long-term competitors in the retail supply of rural merchandise in the relevant Local Market.
- 5.13. Nutrien must ensure that any Approved Transitional Supply Agreement and any renewal or extension of an Approved Transitional Supply Agreement:
- (a) is for a reasonable transitional period, to be nominated by the Approved Purchasers and approved in writing by the ACCC;
 - (b) provides for the supply of the included goods and services at cost price; and
 - (c) is on such terms other than price which are no less favourable to the Approved Purchasers than arm's length terms.
- 5.14. For the avoidance of doubt, nothing in clauses 5.12 and 5.13 requires Nutrien to supply rural merchandise to the Approved Purchaser(s) on a wholesale basis at cost price. If requested, Nutrien (through Landmark) will supply rural merchandise (including all products sold under Landmark's proprietary brands in Australia) to the Approved Purchaser(s) at the same prices, and on terms that are otherwise no less favourable than the terms of wholesale supply, that are or will be offered by the merged entity after completion of the Proposed Acquisition to its affiliated members (excluding franchises, merchandise agencies and ad hoc supply to non-member customers).
- 5.15. Nutrien must provide the ACCC with a copy of the applicable member contract and/or price schedule specifying the terms referred to in clause 5.14 at the same time as providing the ACCC with a notice for a Proposed Purchaser in accordance with clause 6.2.
- 5.16. To avoid doubt, Nutrien must seek prior written approval from the ACCC of any renewal or extension of an Approved Transitional Supply Agreement. Without limiting the ACCC's discretion, in making a decision on whether to approve a renewal or extension of an Approved Transitional Supply Agreement, the ACCC will have regard to the criteria set out in clauses 5.12 and 5.13.

6. Process for approving a proposed purchaser

Potential purchasers

- 6.1. Nutrien must provide the ACCC and Approved Independent Auditor with:
- (a) the identity of any person who expresses an interest in acquiring any Divestiture Business;
 - (b) the status of negotiations with each person; and

- (c) a copy of each person's offer to acquire a Divestiture Business, where relevant;

at the following times:

- (d) as soon as possible following the Commencement Date for those persons who express interest before the Commencement date;
- (e) after the Commencement Date, within 10 Business Days of each person expressing the interest and/or providing an offer;

regardless of whether the person subsequently withdraws or is declined.

Provision of a notice for a Proposed Purchaser

- 6.2. To seek ACCC approval for a Proposed Purchaser, Nutrien or the Approved Divestiture Agent must provide the ACCC with a notice in the form prescribed in Schedule 2 to this Undertaking (**Proposed Purchaser Notice**), including a draft sale and purchase agreement, a draft transitional technical assistance agreement (where required by the Proposed Purchaser), and a draft transitional supply agreement (where required by the Proposed Purchaser).
- 6.3. The Proposed Purchaser Notice must be provided to the ACCC at least 20 Business Days prior to the end of the Initial Sale Period.

Approval of a Proposed Purchaser after the Commencement Date

- 6.4. The ACCC shall have the discretion to approve or reject in writing the Proposed Purchaser identified in a Proposed Purchaser Notice, which includes consideration of:
 - (a) the draft sale and purchase agreement attached to the Proposed Purchaser Notice;
 - (b) any draft transitional technical assistance agreement attached to the Proposed Purchaser Notice, in accordance with the criteria in clauses 5.9 and 5.10; and
 - (c) any draft transitional supply agreement attached to the Proposed Purchaser Notice, in accordance with the criteria in clauses 5.12 and 5.13.
- 6.5. Without limiting the ACCC's discretion, in making the decision pursuant to clause 6.4, the factors to which the ACCC may have regard include whether the:
 - (a) draft sale and purchase agreement is consistent with this Undertaking;
 - (b) Proposed Purchaser will complete the transaction as contemplated by the draft sale and purchase agreement;
 - (c) Proposed Purchaser is independent of Nutrien;
 - (d) Proposed Purchaser is of good financial standing;
 - (e) Proposed Purchaser has an intention to maintain and operate a Divestiture Business as a going concern;
 - (f) Proposed Purchaser is able to conduct a Divestiture Business effectively; and

- (g) divestiture of a Divestiture Business to the Proposed Purchaser will address any competition concerns of the ACCC, including in relation to the likely long-term viability and competitiveness of a Divestiture Business under the ownership of the Proposed Purchaser.
- 6.6. The ACCC may revoke an Approved Purchaser's status as an Approved Purchaser if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.

7. Divestiture Business Protection

Protection of the Divestiture Businesses

- 7.1. From the Commencement Date, Nutrien must not sell or transfer its interest, or any assets comprising part of, or used in, the Divestiture Businesses (other than the sale of goods and services in the ordinary course of business) or make any Material Change, except in accordance with this Undertaking or (subject to the other terms of this Undertaking) as required to allow completion of the Proposed Acquisition.

Nutrien's obligations in relation to the Divestiture Businesses prior to completion of divestiture

- 7.2. Without limiting this clause 7, Nutrien must, from the Commencement Date until completion of the divestiture of the Divestiture Businesses, take all steps available to it to:
- (a) ensure that the Divestiture Businesses are managed and operated in the ordinary course of business as fully operational, competitive going concerns and in such a way that preserves the economic viability, marketability, competitiveness and goodwill of the Divestiture Businesses at the Commencement Date;
 - (b) continue to provide access to working capital and sources of credit for the Divestiture Businesses in a manner which is consistent with the financing of the Divestiture Businesses before the Commencement Date;
 - (c) continue to provide administrative and technical support for the Divestiture Businesses in a manner which is consistent with the operation of the Divestiture Businesses before the Commencement Date and in accordance with any plans established before the Commencement Date;
 - (d) continue existing Agreements relating to the Divestiture Businesses with customers, suppliers and/or other third parties that are in place at the Commencement Date;
 - (e) renew or replace upon expiry Material Contracts for the provision of goods or services to the Divestiture Businesses on commercial terms favourable to the Divestiture Businesses;
 - (f) maintain the supply of those goods and services that are part of the Divestiture Businesses to existing customers in a manner consistent with the supply of those goods and services as at the Commencement Date;
 - (g) maintain the standard of manufacture, distribution, promotion and sale of those products which form part of the Divestiture Businesses as at the Commencement Date; and

- (h) carry out promotion and marketing of the products or services which form part of the Divestiture Businesses in accordance with any plans established before the Commencement Date.

Personnel of Nutrien

- 7.3. From the Commencement Date until completion of the divestiture of the Divestiture Businesses, Nutrien will not:
 - (a) terminate or vary the terms of employment or engagement of any of the Transferred Personnel, or agree to do any of those things, other than for cause (such as a serious breach of a Transferred Personnel's employment contract, including serious misconduct that might harm the reputation of the Divestiture Business, Landmark or Nutrien Ltd, or otherwise contravene the law or give rise to legal liability); and
 - (b) directly or indirectly procure, promote or encourage the redeployment of personnel necessary for the operation of the Divestiture Businesses as at the Commencement Date to any other business operated by Nutrien.
- 7.4. As soon as practicable after the Commencement Date, Nutrien must direct its personnel, including directors, contractors, managers, officers, employees and agents not to do anything inconsistent with Nutrien's obligations under this Undertaking.

Nutrien's ongoing obligations in relation to the Divestiture Businesses

- 7.5. To the extent Nutrien has obligations in relation to the provision of transitional technical assistance or continued supply pursuant to clauses 5.9 to 5.14 of this Undertaking in relation to the Divestiture Businesses, Nutrien must not sell, assign, transfer, and/or licence directly or indirectly any of the assets required by Nutrien to fulfil such obligations without the prior written consent of the ACCC.

Confidential Information

- 7.6. Subject to clause 7.7, Nutrien must not, at any time from the Commencement Date, use or disclose any confidential information about the Divestiture Businesses gained through:
 - (a) ownership and/or management of the Divestiture Businesses; or
 - (b) fulfilling any obligations pursuant to this Undertaking.
- 7.7. Clause 7.6 does not apply to information that Nutrien requires to:
 - (a) comply with legal and regulatory obligations including obligations relating to taxation, accounting, financial reporting or stock exchange disclosure requirements; or
 - (b) carry out its obligations pursuant to this Undertaking;

provided such information is only used for that purpose and is only disclosed to those officers, employees, contractors and advisers of Nutrien who need to know the information to carry out the permitted purpose.

8. Independent Management of the Divestiture Businesses

Obligation to appoint an Approved Independent Manager

- 8.1. Nutrien must appoint and maintain one or more Approved Independent Managers to manage the Divestiture Businesses, from the Control Date until the completion of the divestiture of the Divestiture Businesses in accordance with this Undertaking.

Process for approving a Proposed Independent Manager

- 8.2. At least 15 Business Days before the Control Date, Nutrien must provide the ACCC with one or more notices for a Proposed Independent Manager in the form prescribed in Schedule 3 to this Undertaking (**Proposed Independent Manager Notice**), including a draft terms of appointment and a draft separation and management plan.
- 8.3. If clauses 8.12, 8.13 or 8.14 apply, Nutrien must provide the ACCC with a Proposed Independent Manager Notice within five Business Days after the relevant event occurs, otherwise clause 8.8 applies.
- 8.4. The ACCC shall have the discretion to approve or reject in writing the Proposed Independent Manager identified in the Proposed Independent Manager Notice.
- 8.5. Without limiting the ACCC's discretion, in deciding whether to approve a Proposed Independent Manager, the factors to which the ACCC may have regard include whether the:
- (a) person named in the Proposed Independent Manager Notice or identified by the ACCC has the qualifications and experience necessary to manage the Divestiture Business;
 - (b) person named in the Proposed Independent Manager Notice or identified by the ACCC is sufficiently independent of Nutrien;
 - (c) draft terms of appointment and the draft separation and management plan are consistent with this Undertaking; and
 - (d) draft terms of appointment and the draft separation and management plan are otherwise acceptable to the ACCC.

Appointment of the Approved Independent Manager

- 8.6. After receiving a written notice from the ACCC of its approval of the Proposed Independent Manager, the draft terms of appointment and draft separation and management plan, Nutrien must by the Control Date:
- (a) appoint the person approved by the ACCC as the Approved Independent Manager on the Approved Terms of Appointment; and
 - (b) forward to the ACCC a copy of the executed Approved Terms of Appointment.

Failure to appoint

- 8.7. If the Approved Independent Manager has not been appointed:

- (a) by the Control Date;
- (b) within 15 Business Days after the Approved Independent Manager resigns or otherwise ceases to act as the Approved Independent Manager pursuant to clause 8.12, 8.13 or 8.14; or
- (c) if the ACCC has not received a Proposed Independent Manager Notice pursuant to clause 8.3;

then clause 8.8 applies.

8.8. If clause 8.7 applies, the ACCC at its discretion may:

- (a) identify and approve a person as the Approved Independent Manager, including approving the draft terms of appointment of the Approved Independent Manager and the draft separation and management plan; and/or
- (b) direct Nutrien to appoint a person who the ACCC has deemed is an Approved Independent Manager.

Obligations and powers of the Approved Independent Manager

8.9. Nutrien must procure that any proposed terms of appointment for the Approved Independent Manager include obligations on the Approved Independent Manager to:

- (a) maintain his or her independence from Nutrien, apart from appointment to the role of Approved Independent Manager, including not forming any relationship of the types described in paragraph 2(c) of Schedule 3 to this Undertaking with Nutrien for the period of his or her appointment;
- (b) act in the best interests of the Divestiture Businesses at all times including ensuring that the Divestiture Businesses are managed and operated in the ordinary course of business as fully operational, competitive going concerns and in such a way that preserves the economic viability, marketability, competitiveness and goodwill of the Divestiture Businesses at the Control Date;
- (c) not use any confidential information gained through the management of the Divestiture Businesses other than for performing his or her functions as Approved Independent Manager;
- (d) make only those Material Changes to the Divestiture Businesses which the ACCC does not object to;
- (e) operate and manage the Divestiture Businesses to the maximum extent practicable, in a manner which is financially and operationally separate from Nutrien;
- (f) co-operate with the requests of any Approved Divestiture Agent or Approved Independent Auditor appointed pursuant to this Undertaking.
- (g) provide the following reports directly to the ACCC:
 - (i) a monthly written report regarding the implementation of and any suggested changes to the Approved Separation and Management Plan; and

- (ii) an immediate report of any issues that arise in relation to the implementation of the Approved Separation and Management Plan or Nutrien's compliance with this Undertaking; and
 - (h) follow any direction given to him or her by the ACCC in relation to the performance of his or her functions as Approved Independent Manager pursuant to this Undertaking.
- 8.10. Nutrien must procure that any proposed terms of appointment for an Approved Independent Manager provide the Approved Independent Manager with the sole authority to:
- (a) manage and operate the Divestiture Businesses according to the Approved Separation and Management Plan until the completion of the divestiture of the Divestiture Businesses;
 - (b) provide any information requested by Nutrien pursuant to the protocol in the Approved Separation and Management Plan;
 - (c) decide whether or not to provide access and the manner of such access to competitively sensitive information relating to the Divestiture Businesses requested by Nutrien which is not covered by the protocol in the Approved Separation and Management Plan;
 - (d) renew or replace upon expiry Material Contracts for the provision of goods or services to the Divestiture Businesses on commercial terms favourable to the Divestiture Businesses;
 - (e) engage, redeploy or make redundant personnel employed in the Divestiture Businesses as the Approved Independent Manager determines necessary; and
 - (f) engage any external expertise, assistance or advice required by the Approved Independent Manager to perform his or her functions as the Approved Independent Manager.

Nutrien's obligations in relation to the Approved Independent Manager

- 8.11. Without limiting its obligations in this Undertaking, Nutrien must:
- (a) comply with and enforce the Approved Terms of Appointment of the Approved Independent Manager;
 - (b) maintain and fund the Approved Independent Manager to carry out his or her functions, including:
 - (i) indemnifying the Approved Independent Manager for any expenses, loss, claim or damage arising directly or indirectly from the performance by the Approved Independent Manager of his or her functions as the Approved Independent Manager except where such expenses, loss, claim or damage arises out of the gross negligence, fraud, misconduct or breach of duty by the Approved Independent Manager;

- (ii) ensuring that the Approved Independent Manager is fully able to acquire and pay for sufficient and timely delivery of all goods and services (including from third parties) which the Approved Independent Manager considers are required by the Divestiture Businesses; and
 - (iii) providing and paying for any external expertise, assistance or advice required by the Approved Independent Manager to perform his or her functions as the Approved Independent Manager; and
- (c) not interfere with the authority of, or otherwise hinder, the Approved Independent Manager's ability to carry out his or her obligations as the Approved Independent Manager, including:
- (i) accepting (and directing its directors, contractors, managers, officers, employees and agents to accept) direction from the Approved Independent Manager as to the control, management, financing and operations of the Divestiture Businesses, and for the Divestiture Businesses to meet all legal, corporate, financial, accounting, taxation, audit and regulatory obligations;
 - (ii) providing access to the facilities, sites or operations of the Divestiture Businesses required by the Approved Independent Manager;
 - (iii) providing to the Approved Independent Manager any information or documents that he or she considers necessary for managing and operating the Divestiture Businesses or for reporting to or otherwise advising the ACCC;
 - (iv) not requesting information or reports regarding the Divestiture Businesses from the personnel of the Divestiture Businesses except through the Approved Independent Manager; and
 - (v) not appointing the Approved Independent Manager, or have any Agreements with the Approved Independent Manager, to utilise the Approved Independent Manager's services for anything other than compliance with this Undertaking until at least 12 months after the Approved Independent Manager ceases to act in the role of the Approved Independent Manager.

Resignation, revocation or termination of the Approved Independent Manager

- 8.12. Nutrien must immediately notify the ACCC in the event that the Approved Independent Manager resigns or otherwise stops acting as the Approved Independent Manager before the completion of the divestiture of the Divestiture Businesses.
- 8.13. The ACCC may revoke an Approved Independent Manager's status as the Approved Independent Manager if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.
- 8.14. The ACCC may approve any proposal by, or alternatively may direct, Nutrien to terminate the appointment of the Approved Independent Manager if in the ACCC's view the Approved Independent Manager acts inconsistently with the provisions of this Undertaking or the Approved Terms of Appointment.

9. Independent Audit

Obligation to appoint an Approved Independent Auditor

- 9.1. Nutrien must appoint and maintain an Approved Independent Auditor to audit and report upon Nutrien's compliance with this Undertaking.

Process for approving a Proposed Independent Auditor

- 9.2. At least 15 Business Days before the Control Date, Nutrien must provide the ACCC with a notice for a Proposed Independent Auditor in the form prescribed in Schedule 3 to this Undertaking (**Proposed Independent Auditor Notice**), including draft terms of appointment and a draft audit plan.
- 9.3. If clauses 9.16, 9.17 or 9.18 apply, Nutrien must provide the ACCC with a Proposed Independent Auditor Notice within five Business Days after the relevant event occurs, otherwise clause 9.8 applies.
- 9.4. The ACCC shall have the discretion to approve or reject in writing the Proposed Independent Auditor identified in the Proposed Independent Auditor Notice.
- 9.5. Without limiting the ACCC's discretion, in deciding whether to approve a Proposed Independent Auditor, the factors to which the ACCC may have regard include whether the:
- (a) person named in the Proposed Independent Auditor Notice or identified by the ACCC has the qualifications and experience necessary to carry out the functions of the Approved Independent Auditor;
 - (b) person named in the Proposed Independent Auditor Notice or identified by the ACCC is sufficiently independent of Nutrien;
 - (c) draft terms of appointment and the draft audit plan are consistent with this Undertaking; and
 - (d) draft terms of appointment and the draft audit plan are otherwise acceptable to the ACCC.

Appointment of the Approved Independent Auditor

- 9.6. After receiving a written notice from the ACCC of its approval of a Proposed Independent Auditor, the draft terms of appointment and draft audit plan, Nutrien must by the Control Date:
- (a) appoint the person approved by the ACCC as the Approved Independent Auditor on the Approved Terms of Appointment; and
 - (b) forward to the ACCC a copy of the executed Approved Terms of Appointment.

Failure to appoint

- 9.7. If the Approved Independent Auditor has not been appointed:
- (a) by the Control Date;
 - (b) within 15 Business Days after the Approved Independent Auditor resigns or otherwise ceases to act as the Approved Independent Auditor pursuant to clause 9.16, 9.17, or 9.18; or

- (c) if the ACCC has not received a Proposed Independent Auditor Notice pursuant to clause 9.3;

then clause 9.8 applies.

9.8. If clause 9.7 applies, the ACCC at its absolute discretion may:

- (a) identify and approve a person as the Approved Independent Auditor, including approving the draft terms of appointment and draft audit plan; and/or
- (b) direct Nutrien to appoint a person who the ACCC has deemed is an Approved Independent Auditor.

Obligations and powers of the Approved Independent Auditor

9.9. Nutrien must procure that any proposed terms of appointment for the Approved Independent Auditor include obligations on the Approved Independent Auditor to:

- (a) maintain his or her independence from Nutrien, apart from appointment to the role of Approved Independent Auditor, including not form any relationship of the types described in paragraph 2(c) of Schedule 3 to this Undertaking with Nutrien for the period of his or her appointment;
- (b) conduct compliance auditing according to the Approved Audit Plan;
- (c) where requested by the ACCC, assess the suitability of any Proposed Purchaser or potential purchaser of a Divestiture Business against the factors (as relevant) in clause 6.5;
- (d) provide the following reports directly to the ACCC:
 - (i) a scheduled written Audit Report as described in clause 9.11;
 - (ii) an immediate report of any issues that arise in relation to the performance of his or her functions as Approved Independent Auditor or in relation to compliance with this Undertaking by any person named in this Undertaking; and
 - (iii) where requested by the ACCC, a report on the suitability of any Proposed Purchaser or potential purchaser of a Divestiture Business following an assessment under clause 9.9(c); and
- (e) follow any direction given to him or her by the ACCC in relation to the performance of his or her functions as Approved Independent Auditor under this Undertaking.

9.10. Nutrien must procure that any proposed terms of appointment for the Approved Independent Auditor provide the Approved Independent Auditor with the authority to:

- (a) access the facilities, sites or operations of a Divestiture Business and Nutrien's other businesses as required by the Approved Independent Auditor;
- (b) access any information or documents that the Approved Independent Auditor considers necessary for carrying out his or her functions as the

Approved Independent Auditor or for reporting to or otherwise advising the ACCC; and

- (c) engage any external expertise, assistance or advice required by the Approved Independent Auditor to perform his or her functions as the Approved Independent Auditor.

Compliance Audit

9.11. The Approved Independent Auditor must conduct an audit and prepare a detailed report (**Audit Report**) that includes:

- (a) the Approved Independent Auditor's procedures in conducting the audit, or any change to audit procedures and processes since the previous Audit Report;
- (b) a full audit of Nutrien's compliance with this Undertaking;
- (c) identification of any areas of uncertainty or ambiguity in the Approved Independent Auditor's interpretation of any obligations contained in this Undertaking;
- (d) all of the reasons for the conclusions reached in the Audit Report;
- (e) any qualifications made by the Approved Independent Auditor in forming his or her views;
- (f) any recommendations by the Approved Independent Auditor to improve:
 - (i) the Approved Audit Plan;
 - (ii) the integrity of the auditing process;
 - (iii) Nutrien's processes or reporting systems in relation to compliance with this Undertaking; and
 - (iv) Nutrien's compliance with this Undertaking; and
- (g) the implementation and outcome of any prior recommendations by the Approved Independent Auditor.

9.12. The Approved Independent Auditor is to provide an Audit Report to the ACCC and Nutrien at the following times:

- (a) within 10 Business Days after the Control Date, at which time the Audit Report is to include the results of the initial audit and any recommended changes to the Approved Audit Plan, including the Approved Independent Auditor's proposed procedures and processes for conducting the audit (**Establishment Audit**);
- (b) every month from the date of the Establishment Audit until one month after the divestiture of the Divestiture Businesses is completed;
- (c) every six months after the date of provision of the last Audit Report pursuant to clause 9.12(b), until the ACCC confirms in writing to Nutrien that it is satisfied that Nutrien has fulfilled its obligations pursuant to this Undertaking; and

- (d) a final report due three months after the last report provided pursuant to clause 9.12(c).
- 9.13. Nutrien must implement any recommendations made by the Approved Independent Auditor in Audit Reports, and notify the ACCC of the implementation of such recommendations, within 10 Business Days after receiving the Audit Report or such other period as agreed in writing with the ACCC.
- 9.14. Nutrien must comply with any direction of the ACCC in relation to matters arising from the Audit Report within 10 Business Days after being so directed (or such other period as agreed in writing with the ACCC).

Nutrien's obligations in relation to the Approved Independent Auditor

- 9.15. Without limiting its obligations in this Undertaking, Nutrien must:
 - (a) comply with and enforce the Approved Terms of Appointment for the Approved Independent Auditor;
 - (b) maintain and fund the Approved Independent Auditor to carry out his or her functions including:
 - (i) indemnifying the Approved Independent Auditor for any expenses, loss, claim or damage arising directly or indirectly from the performance by the Approved Independent Auditor of his or her functions as the Approved Independent Auditor except where such expenses, loss, claim or damage arises out of the gross negligence, fraud, misconduct or breach of duty by the Approved Independent Auditor;
 - (ii) providing and paying for any external expertise, assistance or advice required by the Approved Independent Auditor to perform his or her functions as the Approved Independent Auditor; and
 - (c) not interfere with, or otherwise hinder, the Approved Independent Auditor's ability to carry out his or her functions as the Approved Independent Auditor, including:
 - (i) directing Nutrien personnel, including directors, contractors, managers, officers, employees and agents, to act in accordance with this clause 9;
 - (ii) providing access to the facilities, sites or operations of the Divestiture Businesses and Nutrien's other businesses as required by the Approved Independent Auditor;
 - (iii) providing to the Approved Independent Auditor any information or documents he or she considers necessary for carrying out his or her functions as the Approved Independent Auditor or for reporting to or otherwise advising the ACCC;
 - (iv) not requesting any information relating to the compliance audit from the Approved Independent Auditor without such a request having been approved by the ACCC; and
 - (v) not appointing the Approved Independent Auditor, or have any Agreements with the Approved Independent Auditor, to utilise the Approved Independent Auditor's services for anything other than

compliance with this Undertaking until at least 12 months after the Approved Independent Auditor ceases to act in the role of the Approved Independent Auditor.

Resignation, revocation or termination of the Approved Independent Auditor

- 9.16. Nutrien must immediately notify the ACCC in the event that the Approved Independent Auditor resigns or otherwise stops acting as the Approved Independent Auditor.
- 9.17. The ACCC may revoke an Approved Independent Auditor's status as the Approved Independent Auditor if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.
- 9.18. The ACCC may approve any proposal by, or alternatively may direct, Nutrien to terminate the appointment of the Approved Independent Auditor if in the ACCC's view the Approved Independent Auditor acts inconsistently with the provisions of this Undertaking or the Approved Terms of Appointment.

10. Failure to divest the Divestiture Businesses within the Initial Sale Period

Divestiture of the Unsold Businesses

- 10.1. In the event that the divestiture of the Divestiture Businesses to one or more Approved Purchasers is not completed by the end of the Initial Sale Period, each unsold Divestiture Business becomes an unsold business (**Unsold Business**) and the provisions of this clause 10 apply.

Obligation to appoint an Approved Divestiture Agent

- 10.2. From the end of the Initial Sale Period, Nutrien must appoint and maintain an Approved Divestiture Agent to effect the divestiture of each Unsold Business.

Process for approving a Proposed Divestiture Agent

- 10.3. At least 15 Business Days prior to the end of the Initial Sale Period, if the divestiture of one or more of the Divestiture Businesses has not been completed, Nutrien must provide the ACCC with a notice for a Proposed Divestiture Agent in the form of Schedule 3 to this Undertaking (**Proposed Divestiture Agent Notice**) including draft terms of appointment, a draft business sale agreement, and draft marketing and sale plan.
- 10.4. If clauses 10.14, 10.15 or 10.16 apply, Nutrien must provide the ACCC with a Proposed Divestiture Agent Notice within five Business Days after the relevant event occurs, otherwise clause 10.9 applies.
- 10.5. The ACCC shall have the discretion to approve or reject in writing the Proposed Divestiture Agent.
- 10.6. Without limiting the ACCC's discretion, in deciding whether to approve a Proposed Divestiture Agent, the factors to which the ACCC may have regard include whether the:

- (a) person named in Proposed Divestiture Agent Notice or identified by the ACCC has the qualifications and experience necessary to carry out the functions of the Approved Divestiture Agent;
- (b) person named in the Proposed Divestiture Agent Notice or identified by the ACCC is sufficiently independent of Nutrien;
- (c) draft terms of appointment, draft business sale agreement and draft marketing and sale plan are consistent with this Undertaking; and
- (d) draft terms of appointment, draft business sale agreement and draft marketing and sale plan are otherwise acceptable to the ACCC.

Appointment of the Approved Divestiture Agent

- 10.7. After receiving written notice from the ACCC of its approval of the Proposed Divestiture Agent, the draft terms of appointment, draft business sale agreement and draft marketing and sale plan, Nutrien must within two Business Days:
- (a) appoint the person approved by the ACCC as the Approved Divestiture Agent on the Approved Terms of Appointment; and
 - (b) forward to the ACCC a copy of the executed Approved Terms of Appointment.

Failure to appoint

- 10.8. If the Approved Divestiture Agent has not been appointed:
- (a) within 10 Business Days after a Divestiture Business becomes an Unsold Business;
 - (b) within 15 Business Days after the Approved Divestiture Agent resigns or otherwise ceases to act pursuant to clauses 10.14, 10.15 or 10.16; or
 - (c) if the ACCC has not received a Proposed Divestiture Agent Notice pursuant to clause 10.4;
- then clause 10.9 applies.
- 10.9. If clause 10.8 applies, the ACCC may, at its absolute discretion:
- (a) identify and approve a person as the Approved Divestiture Agent, including approving the draft terms of appointment of the Approved Divestiture Agent, draft business sale agreement and draft marketing and sale plan; and/or
 - (b) direct Nutrien to appoint a person who the ACCC has deemed is an Approved Divestiture Agent.

Obligations and powers of the Approved Divestiture Agent

- 10.10. Nutrien must procure that any proposed terms of appointment for the Approved Divestiture Agent include obligations on the Approved Divestiture Agent to:
- (a) divest the Unsold Business only to an Approved Purchaser, at no minimum price;

- (b) maintain his or her independence from Nutrien, apart from appointment to the role of Approved Divestiture Agent, including not forming any relationship of the types described in paragraph 2(c) of Schedule 3 to this Undertaking with Nutrien for the period of his or her appointment;
- (c) not use any confidential information gained through the divestiture of the Unsold Business other than for performing his or her functions as Approved Divestiture Agent;
- (d) follow the Approved Marketing and Sale Plan;
- (e) use his or her best endeavours to enter into a binding agreement for the divestiture of the Unsold Business as quickly as possible using the Approved Business Sale Agreement;
- (f) co-operate with the requests of any Approved Independent Manager or Approved Independent Auditor appointed pursuant to this Undertaking;
- (g) every 30 Business Days following appointment of the Approved Divestiture Agent, provide written reports directly to the ACCC which include:
 - (i) information regarding the implementation of the Approved Business Sale Agreement and the Approved Marketing and Sale Plan including any previous changes approved by the ACCC;
 - (ii) information regarding any suggested changes to any Approved Marketing and Sale Plan including any previous changes approved by the ACCC;
 - (iii) an account and explanation of all disbursements, fees and charges incurred by the Approved Divestiture Agent in undertaking his or her duties by month and to the date of the report;
 - (iv) a schedule of agreed fees of the Approved Divestiture Agent (including the fees of any adviser appointed under clause 10.11(d));
 - (v) the efforts made to sell the Unsold Business;
 - (vi) the identity of any advisers engaged;
 - (vii) the identity of any persons expressing interest in the Unsold Business; and
 - (viii) any other information required by the ACCC.
- (h) within 30 Business Days after the completion of the divestiture of the Unsold Business, provide a written report directly to the ACCC which includes a final accounting of:
 - (i) any moneys derived from the divestiture of the Unsold Business;
 - (ii) all disbursements, fees and charges incurred by the Approved Divestiture Agent in fulfilling his or her duties; and
 - (iii) all agreed fees of the Approved Divestiture Agent (including the fees of any adviser appointed under clause 10.11(d));
- (i) immediately inform the ACCC of:

- (i) any issues that arise in relation to the implementation of the Approved Sale and Purchase Agreement and any Approved Marketing and Sale Plan;
 - (ii) non-compliance with this Undertaking by any person named in this Undertaking;
 - (iii) any offers for the Unsold Business;
- (j) accept any offer for the Unsold Business upon instruction from Nutrien given in accordance with clause 10.13(d); and
- (k) follow any direction given to him or her by the ACCC in relation to the performance of his or her functions as Approved Divestiture Agent pursuant to this Undertaking.

10.11. Nutrien must procure that any proposed terms of appointment for the Approved Divestiture Agent contain an irrevocable grant of power of attorney conferring all necessary power and authority on the Approved Divestiture Agent to:

- (a) negotiate with purchasers to divest the Unsold Business on terms considered by the Approved Divestiture Agent in his or her sole discretion to be consistent with this Undertaking and the Approved Marketing and Sale Plan;
- (b) execute any agreements with the Approved Purchasers required pursuant to clause 6.4;
- (c) upon instruction pursuant to clause 10.13(d), complete the divestiture of any Unsold Businesses to Approved Purchasers in accordance with the Approved Business Sale Agreement; and
- (d) engage any external expertise, assistance or advice required by the Approved Divestiture Agent to perform his or her functions as the Approved Divestiture Agent.

10.12. Any irrevocable power of attorney granted pursuant to clause 10.11 will end upon resignation or termination of the Approved Divestiture Agent in accordance with clauses 10.14, 10.15 and 10.16, or in the event that the Unsold Business is divested in accordance with this Undertaking.

Nutrien's obligations in relation to the Approved Divestiture Agent

10.13. Without limiting its obligations in this Undertaking, Nutrien must from the end of the Initial Sale Period:

- (a) comply with and enforce the Approved Terms of Appointment for the Approved Divestiture Agent;
- (b) maintain and fund the Approved Divestiture Agent to carry out his or her functions; including:
 - (i) indemnifying the Approved Divestiture Agent for any expenses, loss, claim or damage arising directly or indirectly from the performance by the Approved Divestiture Agent of his or her functions as the Approved Divestiture Agent except where such expenses, loss, claim or damage arises out of the gross negligence, fraud, misconduct or breach of duty by the Approved Divestiture Agent;

- (ii) providing and paying for any external expertise, assistance or advice required by the Approved Divestiture Agent to perform his or her functions as the Approved Divestiture Agent;
 - (iii) paying such fees as are agreed between the Approved Divestiture Agent and Nutrien (but not fees contingent on the price to be obtained for the Unsold Business); and
 - (iv) if an agreement as to fees cannot be reached between the Approved Divestiture Agent and Nutrien within 15 Business Days after the end of the Initial Sale Period, Nutrien agrees to pay such fees as are directed by the ACCC;
- (c) not interfere with, or otherwise hinder, the Approved Divestiture Agent's ability to carry out his or her functions as the Approved Divestiture Agent, including:
- (i) directing its personnel, including directors, contractors, managers, officers, employees and agents, to act in accordance with this clause 10;
 - (ii) providing access to the facilities, sites or operations of the Unsold Business as required by the Approved Divestiture Agent; and
 - (iii) providing to the Approved Divestiture Agent any information, documents or other assistance he or she considers necessary for carrying out his or her functions as the Approved Divestiture Agent or for reporting to or otherwise advising the ACCC;
- (d) within three Business Days after receiving notice from the ACCC pursuant to clause 6.4, Nutrien must instruct the Approved Divestiture Agent to complete the divestiture of the Unsold Business to an Approved Purchaser in accordance with the documents approved by the ACCC pursuant to clause 6.4; and
- (e) other than in accordance with clause 10.13(d) of this Undertaking, not instruct the Approved Divestiture Agent to divest the Unsold Business.

Resignation, revocation or termination of the Approved Divestiture Agent

- 10.14. Nutrien must immediately notify the ACCC in the event that an Approved Divestiture Agent resigns or otherwise stops acting as an Approved Divestiture Agent before the completion of the divestiture of the Unsold Business.
- 10.15. The ACCC may revoke an Approved Divestiture Agent's status as the Approved Divestiture Agent if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.
- 10.16. The ACCC may approve any proposal by, or alternatively may direct, Nutrien to terminate an Approved Divestiture Agent if in the ACCC's view the Approved Divestiture Agent acts inconsistently with the provisions of this Undertaking or the Approved Terms of Appointment.

11. Notification of key dates and ACCC requests for information

- 11.1. Nutrien must notify the ACCC and each Undertaking Appointment in writing of:

- (a) the anticipated date of the Control Date, at least five Business Days before that date;
 - (b) the anticipated date of the completion of the divestiture of each Divestiture Business, at least five Business Days before that date;
 - (c) the occurrence of the Control Date, within one Business Day of that date; and
 - (d) the occurrence of the completion of the divestiture of each Divestiture Business, within one Business Day of that date.
- 11.2. The ACCC may direct Nutrien in respect of its compliance with this Undertaking to, and Nutrien must:
- (a) furnish information to the ACCC in the time and in the form requested by the ACCC;
 - (b) produce documents and materials to the ACCC within Nutrien's custody, power or control in the time and in the form requested by the ACCC; and/or
 - (c) attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (its Commissioners, its staff or its agents) may have.
- 11.3. Any direction made by the ACCC under clause 11.2 will be notified to Nutrien, in accordance with clause 17.2.
- 11.4. In respect of Nutrien's compliance with this Undertaking or an Undertaking Appointment's compliance with its Approved Terms of Appointment, the ACCC may request any Undertaking Appointment to:
- (a) furnish information to the ACCC in the time and in the form requested by the ACCC;
 - (b) produce documents and materials to the ACCC within the Undertaking Appointment's custody, power or control in the time and in the form requested by the ACCC; and/or
 - (c) attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (its Commissioners, its staff or its agents) may have.
- 11.5. Nutrien will use its best endeavours to ensure that an Undertaking Appointment complies with any request from the ACCC in accordance with clause 11.4.
- 11.6. Information furnished, documents and material produced or information given in response to any request or direction from the ACCC under this clause 11 may be used by the ACCC for any purpose consistent with the exercise of its statutory duties.
- 11.7. The ACCC may in its discretion:
- (a) advise any Undertaking Appointment of any request made by it under this clause 11; and/or
 - (b) provide copies to any Undertaking Appointment of any information furnished, documents and material produced or information given to it under this clause 11.

- 11.8. Nothing in this clause 11 requires the provision of information or documents in respect of which Nutrien has a claim of legal professional or other privilege.

12. Disclosure of this Undertaking

- 12.1. Nutrien and the ACCC agree that Schedule 5 will remain confidential until after the completion of the divestiture of the Divestiture Businesses and any Unsold Businesses.
- 12.2. Nutrien acknowledges that the ACCC may provide each Undertaking Appointment with a copy of this Undertaking which includes unredacted versions of Schedule 5.
- 12.3. Nutrien acknowledges that the ACCC may, subject to clause 12.1:
- (a) make this Undertaking publicly available;
 - (b) publish this Undertaking on its Public Section 87B Undertakings Register and Public Mergers Register; and
 - (c) from time to time publicly refer to this Undertaking.
- 12.4. Nothing in clause 12.1 or the confidential parts of this Undertaking referred to in clause 12.1 prevents the ACCC from disclosing such information as is:
- (a) required by law;
 - (b) permitted by section 155AAA of the Act;
 - (c) necessary for the purpose of enforcement action under section 87B of the Act; or
 - (d) necessary for the purpose of making such market inquiries as the ACCC thinks fit to assess the impact on competition arising in connection with this Undertaking.
- 12.5. Nothing in clause 12.1 or the confidential parts of this Undertaking referred to in clause 12.1 prevents the ACCC from using the information contained in this Undertaking for any purpose consistent with its statutory functions and powers.

13. Obligation to procure

- 13.1. Where the performance of an obligation under this Undertaking requires a Related Body Corporate of Nutrien to take or refrain from taking some action, Nutrien will procure that Related Body Corporate to take or refrain from taking that action.

14. No Derogation

- 14.1. This Undertaking does not prevent the ACCC from taking enforcement action at any time whether during or after the period of this Undertaking in respect of any breach by Nutrien of any term of this Undertaking.

- 14.2. Nothing in this Undertaking is intended to restrict the right of the ACCC to take action under the Act for penalties or other remedies in the event that Nutrien does not fully implement and/or perform its obligations under this Undertaking or in any other event where the ACCC decides to take action under the Act for penalties or other remedies.

15. Change of Control

- 15.1. In the event that a Change of Control is reasonably expected to occur, Nutrien must:
- (a) notify the ACCC of this expectation as soon as practicable; and
 - (b) only implement a Change of Control to another person or entity if that person or entity has given a section 87B undertaking to the ACCC that requires it to comply with the same obligations as are imposed on Nutrien pursuant to this Undertaking, or on terms that are otherwise acceptable to the ACCC, unless the ACCC has notified Nutrien in writing that a section 87B undertaking under this clause is not required.

16. Costs

- 16.1. Nutrien must pay all of its own costs incurred in relation to this Undertaking.

17. Notices

Giving Notices

- 17.1. Any notice or communication to the ACCC pursuant to this Undertaking must be sent to:

Email address: mergers@acc.gov.au
Attention: Executive General Manager
Merger and Authorisation Review Division

With a copy sent to: mergersru@acc.gov.au
Attention: Director, Remedies Unit
Coordination and Strategy Branch
Merger and Authorisation Review Division

- 17.2. Any notice or communication to Nutrien pursuant to this Undertaking must be sent to:

Name: Ashurst
Address: 123 Eagle Street, Brisbane, QLD 4000

Email Address: Alyssa.Phillips@ashurst.com
John.McKellar@ashurst.com

Attention: Alyssa Phillips, Partner
John McKellar, Senior Associate

With a copy sent to:

Name: Nutrien Ltd.

Address: 13131 Lake Fraser Drive SE, Calgary, AB T2J 7E8

Email Address: Tom.Mix@nutrien.com

Attention: Tom Mix, General Counsel, Mergers & Acquisitions

- 17.3. If sent by post, notices are taken to be received three Business Days after posting (or seven Business Days after posting if sent to or from a place outside Australia).
- 17.4. If sent by email, notices are taken to be received at the time shown in the email as the time the email was sent.

Change of contact details

- 17.5. Nutrien must notify the ACCC of a change to its contact details within three Business Days.
- 17.6. Any notice or communication will be sent to the most recently advised contact details and subject to clauses 17.3 and 17.4, will be taken to be received.

18. Defined terms and interpretation

Definitions in the Dictionary

- 18.1. A term or expression starting with a capital letter:
- (a) which is defined in the Dictionary in Part 1 of Schedule 1 (Dictionary), has the meaning given to it in the Dictionary; or
 - (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

Interpretation



- 18.2. Part 2 of Schedule 1 sets out rules of interpretation for this Undertaking.

Executed as an Undertaking

Executed by **Nutrien Ltd.** by its authorised signatory:

	
Signature of authorised signatory	Signature of authorised signatory
Mike Frank President & CEO, Retail Nutrien	Mark Thompson EVP, Chief Corporate Development & Strategy Off.
Name of authorised signatory (print)	Name of authorised signatory (print)
Date 19/08/2019	Date 19/08/2019

Executed by **Agrium SP Holdings Pty Limited** ACN 146 674 400 pursuant to section 127(1) of the Corporations Act 2001 by

	
Signature of director	Signature of director / company secretary
Rob Clayton Managing Director Landmark Operations ABN: 73 008 743 217	DOUGAL RICHARDSON COMPANY SECRETARY
Name of director (print)	Name of director / company secretary (print)
Date 19 AUGUST 2019	Date 19 AUGUST 2019

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth) on:

21/8/19
Date

and signed on behalf of the Commission:


Chair

21/8/19
Date

Schedule 1 – Dictionary and interpretation

1. Dictionary

ACCC means the Australian Competition and Consumer Commission.

Acquirer means Nutrien Ltd.

Act means the *Competition and Consumer Act 2010* (Cth).

Agreements means any contract, arrangement or understanding, including any contract, arrangement or understanding to renew, amend, vary or extend any contract, arrangement or understanding.

Approved Audit Plan means the plan approved by the ACCC in accordance with the terms of this Undertaking, by which the Approved Independent Auditor will audit and report upon compliance with this Undertaking.

Approved Business Sale Agreement means each standard form contract for the divestiture of each Unsold Business which has been approved by the ACCC in accordance with the terms of this Undertaking.

Approved Divestiture Agent means the person approved by the ACCC and appointed under clause 10 of this Undertaking.

Approved Independent Auditor means the person approved by the ACCC and appointed under clause 9 of this Undertaking.

Approved Independent Manager means the person approved by the ACCC and appointed under clause 8 of this Undertaking.

Approved Marketing and Sale Plan means each plan approved by the ACCC in accordance with the terms of this Undertaking, by which the Approved Divestiture Agent will market and effect the divestiture of each Unsold Business.

Approved Purchaser means a person approved by the ACCC under clause 6 of this Undertaking.

Approved Sale and Purchase Agreement means each contract approved by the ACCC in accordance with the terms of this Undertaking, by which Nutrien will divest each Divestiture Business to one or more Approved Purchasers and the Approved Purchasers will acquire the Divestiture Business from Nutrien.

Approved Separation and Management Plan means each plan approved by the ACCC in accordance with the terms of this Undertaking, by which each Approved Independent Manager will:

- a) separate the Divestiture Businesses from any business to be retained by Nutrien; and
- b) manage and operate the Divestiture Businesses independently of Nutrien and any retained business.

Approved Transitional Supply Agreement means any agreement, for the supply of goods or services (other than Technical Assistance) by Nutrien to an Approved Purchaser, approved by the ACCC in accordance with the terms of this Undertaking.

Approved Transitional Technical Assistance Agreement means any agreement, for the supply of Technical Assistance by Nutrien to an Approved Purchaser, approved by the ACCC in accordance with the terms of this Undertaking.

Approved Terms of Appointment means each terms of appointment for an Approved Independent Manager, Approved Independent Auditor or Approved Divestiture Agent, as applicable, as approved by the ACCC in accordance with the terms of this Undertaking.

Associated Entity has the meaning given by section 50AAA of the Corporations Act.

Audit Report has the meaning given to it in clause 9.11 of this Undertaking.

Business Day means a day other than a Saturday or Sunday on which banks are open for business generally in the Australian Capital Territory.

Change of Control means:

- the assignment or other transfer of the legal or beneficial ownership of some or all of the share capital of Nutrien to any other person or entity that may impact compliance with this Undertaking in its entirety; or
- the sale or transfer of any assets necessary, or which may be necessary, to enable Nutrien to continue to comply with this Undertaking in its entirety.

Commencement Date means the date described in clause 3.1 of this Undertaking.

Control Date means the date on which the Proposed Acquisition is completed.

Consents means any Government Consents or Third Party Consents.

Corporations Act means the *Corporations Act 2001* (Cth).

Divestiture Business means each of the businesses described in Schedule 4 to this Undertaking.

Entities Connected has the meaning given by section 64B of the Corporations Act.

Establishment Audit has the meaning given to it in clause 10.1(a) of this Undertaking.

Government Consents means any consents from any government agency required for the assignment, novation, sale, sub-licensing or transfer of any assets, licences, permits, approval or contracts required for the operation of the Divestiture Businesses.

Holding Company has the meaning given by section 9 of the Corporations Act.

Initial Sale Period is defined in clause 1 of Confidential Schedule 5 to this Undertaking.

Local Market has the meaning given in clause 2.8.

Material Change means any change to the structure, attributes, extent or operations of the Divestiture Businesses or product or service sold by a Divestiture Business that may affect, or impact on, the competitiveness of the Divestiture Businesses.

Material Contract means any Agreement that is necessary for the operation of the Divestiture Businesses.

Proposed Acquisition is defined in clause 2 of this Undertaking.

Proposed Divestiture Agent means a person named in a Proposed Divestiture Notice.

Proposed Divestiture Agent Notice has the meaning given to it in clause 10.3 of this Undertaking.

Proposed Independent Auditor means a person named in a Proposed Independent Auditor Notice.

Proposed Independent Auditor Notice has the meaning given to it in clause 9.2 of this Undertaking.

Proposed Independent Manager means a person named in a Proposed Independent Manager Notice.

Proposed Independent Manager Notice has the meaning given to it in clause 8.2 of this Undertaking.

Proposed Purchaser means a person named in a Proposed Purchaser Notice.

Proposed Purchaser Notice has the meaning given to it in clause 6.2 of this Undertaking.

Public Mergers Register means the ACCC's public register of merger clearances, available at www.accc.gov.au.

Public Section 87B Undertakings Register means the ACCC's public register of section 87B undertakings, available at www.accc.gov.au.

Related Bodies Corporate has the meaning given to it by section 50 of the *Corporations Act 2001* (Cth).

Related Entities has the meaning given to it by section 9 of the *Corporations Act 2001* (Cth).

Related Parties has the meaning given to it by section 228 of the *Corporations Act 2001* (Cth).

Subsidiary has the meaning given by section 9 of the *Corporations Act*.

Target means Ruralco Holdings Limited (ABN 40 009 660 879).

Technical Assistance includes advising on technical knowledge documentation, supporting the Approved Purchasers on acquiring specific assets necessary for the ongoing conduct of the Divestiture Businesses, providing staff with suitable experience and skills to assist and/or advice on technical issues, assisting in training for the Approved Purchasers' staff, and providing guidance on regulatory and legal aspects relating to the transfer of or application for licences.

Third Party Consents means any Consent from any entity that is not a government agency required for the assignment, novation, sale, sub-licensing or transfer of any assets, licences, permits, approval or contracts required for the operation of the Divestiture Businesses.

Transferred Personnel has the meaning given to it in clause 5.7 of this Undertaking.

Undertaking is a reference to all provisions of this document, including its schedules and as varied from time to time under section 87B of the Act.

Undertaking Appointment means the Approved Independent Manager, the Approved Independent Auditor or the Approved Divestiture Agent, as applicable.

Undertaking Signatories has the meaning given to it in clause 1.1 of this Undertaking.

Unsold Business has the meaning given to it in clause 10.1 of this Undertaking.

2. Interpretation

- 2.1 In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:
- (a) a reference to this Undertaking includes all of the provisions of this document including its schedules;
 - (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
 - (c) if the day on which any act, matter or thing is to be done under this Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;
 - (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
 - (e) a reference in this Undertaking to any company includes its Related Bodies Corporate;
 - (f) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
 - (g) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
 - (h) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
 - (i) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
 - (j) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders;
 - (k) a reference to the words 'such as', 'including', 'particularly' and similar expressions is to be construed without limitation;
 - (l) a construction that would promote the purpose - or object - underlying the Undertaking (whether expressly stated or not) will be preferred to a construction that would not promote that purpose or object;
 - (m) material not forming part of this Undertaking may be considered to:

- (i) confirm the meaning of a clause is the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the competition concerns intended to be addressed by the Undertaking and the clause in question; or
 - (ii) determine the meaning of the clause when the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the purpose or object underlying the Undertaking, leads to a result that does not promote the purpose or object underlying the Undertaking;
- (n) in determining whether consideration should be given to any material in accordance with paragraph (m), or in considering any weight to be given to any such material, regard must be had, in addition to any other relevant matters, to the:
- (i) effect that reliance on the ordinary meaning conveyed by the text of the clause would, have (taking into account its context in the Undertaking and whether that meaning promotes the purpose or object of the Undertaking); and
 - (ii) need to ensure that the result of the Undertaking is to completely address any ACCC competition concerns;
- (o) the ACCC may authorise the ACCC Mergers Review Committee, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions which the ACCC may impose;
- (p) in performing its obligations under this Undertaking, Nutrien will do everything reasonably within its power to ensure that its performance of those obligations is done in a manner which is consistent with promoting the purpose and object of this Undertaking;
- (q) a reference to:
- (i) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (ii) a party includes its successors and permitted assigns; and
 - (iii) a monetary amount is in Australian dollars.

Schedule 2 – Proposed Purchaser Notice Form

Please note in relation to information given on or in relation to this form, giving false or misleading information is a serious offence.

The completed form with requested documents attached may be provided to the ACCC using the following method:

Email

Subject line: Proposed Purchaser Notice – Undertaking given under section 87B of the Competition and Consumer Act 2010 (Cth) by Nutrien Ltd. and its subsidiary Agrium SP Holdings Pty Limited ACN 146 674 400

Address: mergers@accc.gov.au

Attention: Executive General Manager - Merger and Authorisation Review Division

With an email copy sent to:

Address: mergersru@accc.gov.au

Attention: Director, Remedies Unit, Merger Coordination and Strategy Branch,
Merger and Authorisation Review Division

- 1) In relation to the Proposed Purchaser, please provide the following information:
 - (a) Name of the Proposed Purchaser:
 - (b) Address:
 - (c) Contact name:
 - (d) Telephone number:
 - (e) Other contact details:
- 2) Please attach a submission containing the following information to this form:
 - (a) a description of the business carried on by the Proposed Purchaser including the locations in which the Proposed Purchaser carries on its business.
 - (b) details of the Proposed Purchaser's experience in the relevant market/s.
 - (c) the names of the [owner/s and the directors (delete any that do not apply)] of the Proposed Purchaser.
 - (d) details of any of the following types of relationships between Nutrien and the Proposed Purchaser or confirmation that no such relationship exists whether within Australia or outside of Australia:
 - (i) Nutrien and the Proposed Purchaser are Associated Entities;
 - (ii) Nutrien is an Entity Connected with the Proposed Purchaser;
 - (iii) the Proposed Purchaser is an Entity Connected with Nutrien;
 - (iv) Nutrien and the Proposed Purchaser are Related Entities;
 - (v) Nutrien and the Proposed Purchaser are Related Parties;

- (vi) any Related Party, Related Entity or Entity Connected with Nutrien is a Related Party, Related Entity or Entity Connected with the Proposed Purchaser;
 - (vii) Nutrien and the Proposed Purchaser have a contractual relationship or had one within the past three years, other than those attached to this form;
 - (viii) the Proposed Purchaser is a supplier of Nutrien or has been in the past three years;
 - (ix) Nutrien is a supplier of the Proposed Purchaser or has been in the past three years; and
 - (x) any other relationship between Nutrien and the Proposed Purchaser that allows one to affect the business decisions of the other.
- (e) a section addressing the following factors, including any information adverse to the Proposed Purchaser, in the power, possession or control of Nutrien:
- (i) whether the draft sale and purchase agreement is consistent with this Undertaking;
 - (ii) whether the Proposed Purchaser will complete the transaction as contemplated by the draft sale and purchase agreement;
 - (iii) whether the Proposed Purchaser is of good financial standing;
 - (iv) whether the Proposed Purchaser has an intention to maintain and operate a Divestiture Business as a going concern;
 - (v) whether the Proposed Purchaser is able to conduct a Divestiture Business effectively;
 - (vi) whether the divestiture of a Divestiture Business to the Proposed Purchaser will address any competition concerns of the ACCC, including any relationships (including but not limited to shareholding interests, other proprietary interests, contracts, arrangements or understandings) between the Proposed Purchaser and other entities in a relevant market, and the likely long-term viability and competitiveness of a Divestiture Business under the ownership of the Proposed Purchaser; and
 - (vii) any other matters that may affect the Proposed Purchaser's capacity or ability to acquire or operate the Divestiture Business, such as outstanding legal action or disputes.

3) Please also attach to this form:

- (a) the finalised draft of the sale and purchase agreement for approval by the ACCC in accordance with this Undertaking.
- (b) the finalised draft of any transitional technical assistance agreement for approval by the ACCC in accordance with this Undertaking.
- (c) the finalised draft of any transitional supply agreement for approval by the ACCC in accordance with this Undertaking.
- (d) any documents required to support the information provided by Nutrien pursuant to this form.

Schedule 3 – Undertaking Appointment

This form sets out the information required by the ACCC in relation to proposed appointment of the following positions under the Undertaking:

- Independent Manager; or
- Independent Auditor; or
- Divestiture Agent;

(the **Undertaking Appointments**).

This form is to be used for each of the above appointments.

Please note in relation to information given pursuant to this form, giving false or misleading information is a serious offence.

Method of Delivery to the ACCC

The completed Undertaking Appointment form, along with the additional requested information is to be provided to the ACCC with the subject line (*proposed* [only include relevant Undertaking Appointment i.e. Independent Auditor/Divestiture Agent/Independent Manager] *Form – Undertaking* given under section 87B of the Competition and Consumer Act 2010 (Cth) by Nutrien Ltd. and its subsidiary Agrium SP Holdings Pty Limited ACN 146 674 400 to the below email addresses:

- 1) mergers@acc.gov.au
Attention: Executive General Manager
Merger and Authorisation Review Division
- 2) **With a copy sent to:**
mergersru@acc.gov.au
Attention: Director
Remedies Unit
Coordination and Strategy Branch
Merger and Authorisation Review Division

Information Required

The ACCC requires the following information in order to assess a proposed Independent Auditor, Divestiture Agent or Independent Manager (i.e. the relevant Undertaking Appointment).

- 1) Proposed Undertaking Appointment Details:
 - (a) the name of the Proposed Undertaking Appointment; and
 - (b) the name of the proposed Undertaking Appointment's employer and contact details including:
 - Address;
 - Contact name;

- Telephone number;
- Other contact details.

2) A submission containing the following information:

- (a) details of the [Undertaking Appointment]'s qualifications and experience relevant to his or her proposed role pursuant to the Undertaking
- (b) the names of the [owner/s and the directors (delete any that do not apply)] of [the Undertaking Appointment's employer]
- (c) details of any of the following types of relationships between Nutrien and [the Undertaking Appointment] or [the Undertaking Appointment's employer] or confirmation that no such relationship exists whether within Australia or outside of Australia:
 - (i) Nutrien and [the Undertaking Appointment's employer] are Associated Entities
 - (ii) Nutrien is an Entity Connected with [the Undertaking Appointment's employer]
 - (iii) [The Undertaking Appointment's employer] is an Entity Connected with Nutrien
 - (iv) Nutrien and [the Undertaking Appointment's employer] are Related Entities
 - (v) Nutrien and [the Undertaking Appointment's employer] are Related Parties
 - (vi) any Related Party, Related Entity or Entity Connected with Nutrien is a Related Party, Related Entity or Entity Connected with [the Undertaking Appointment]
 - (vii) Nutrien and [the Undertaking Appointment] or [the Undertaking Appointment's employer] have a contractual relationship or had one within the past three years, other than those attached to this form
 - (viii) [the Undertaking Appointment's employer] is a supplier of Nutrien or has been in the past three years
 - (ix) Nutrien is a supplier of the [the Undertaking Appointment's employer] or has been in the past three years, and
 - (x) any other relationship between Nutrien and [the Undertaking Appointment] or [the Undertaking Appointment's employer] that allows one to affect the business decisions of the other, and
- (d) details of any existing or past contractual relationships between the Undertaking Appointment or the Undertaking Appointment's employer and the ACCC within the past three years.

3) A document outlining the terms of appointment for the proposed Undertaking Appointment. This should identify the basis on which fees will be paid, including disclosure of any propose performance-based fees.

Specific Information required for Undertaking Appointments

The ACCC requires the below information in relation to the relevant Undertaking Appointment.

Proposed Independent Auditor

- 1) A finalised draft audit plan for the Divestiture Businesses, drafted by the Proposed Independent Auditor and outlining (to the extent possible) the Proposed Independent Auditor's plans in regard to the establishment audit and the Audit Report.

Proposed Divestiture Agent

- 1) The finalised draft business sale agreement drafted by the Proposed Divestiture Agent in consultation with Nutrien. The draft business sale agreement is to provide for the divestiture of any Unsold Business.
- 2) The Proposed Divestiture Agent's draft marketing and sale plan for the Unsold Business.

Proposed Independent Manager

- 1) The finalised draft separation and management plan for the relevant Divestiture Business detailing the measures and timing to be implemented by Nutrien and the Approved Independent Manager in order to fulfil Nutrien's and the Approved Independent Manager's obligations pursuant to this Undertaking. This plan is to be drafted by the Proposed Independent Manager in consultation with Nutrien to achieve the objectives of the Undertaking including:
 - (a) the intended mode of operation of the Divestiture Business until completion of its divestiture;
 - (b) separation measures to ensure the Divestiture Business is operated in a manner which is financially and operationally separate from Nutrien, including the:
 - (i) separation of the books and records of the Divestiture Business from those of Nutrien;
 - (ii) severance of the Divestiture Business's participation in any private shared information technology networks, to the extent possible without compromising the viability of the Divestiture Business;
 - (iii) implementation of specific electronic, information and physical security measures to maintain the confidentiality of any competitively sensitive information of the Divestiture Business; and
 - (iv) severance of arrangements to share personnel and plant between the Divestiture Business and any businesses to be retained by Nutrien, to the extent possible without compromising the viability of the Divestiture Business;
 - (c) details of contracts for the provision of goods or services to the Divestiture Business which will expire after the completion of the divestiture of the Divestiture Business to the Approved Purchaser and the actions which will be taken to ensure they are replaced, renewed and/or renegotiated on commercial terms favourable to the Divestiture Business;

- (d) personnel planning to maintain appropriate personnel levels and ensure that the Divestiture Business has access to all personnel necessary to operate the Divestiture Business;
- (e) any Material Changes to the Divestiture Business required in order to fulfil Nutrien's and the Approved Independent Manager's obligations pursuant to the Undertaking;
- (f) the cooperation required from the Independent Manager with Nutrien in relation to the divestiture of the Divestiture Business, including:
 - (i) the activities to be conducted by the Independent Manager that are necessary for the effective operation of the Divestiture Business, having regard to the nature of the Divestiture Business (including the extent to which the Divestiture Business already has a management structure in place prior to the proposed acquisition that will be retained during the hold separate period);
 - (ii) the method by which due diligence information, site visits and personnel interviews by and to prospective purchasers of the Divestiture Business will be managed;
 - (iii) the method by which the Independent Manager and Nutrien will preserve the confidentiality of the Divestiture Business's competitively sensitive information from Nutrien and its advisers throughout this process; and
 - (iv) a protocol whereby the Approved Independent Manager can provide any information requested by Nutrien without disclosing the details of the Divestiture Business's competitively sensitive information to Nutrien.

Schedule 4 – Divestiture Business

1. INTRODUCTION – THE DIVESTITURE BUSINESSES

The Divestiture Businesses comprise:

- (a) The business operated at and from the rural merchandise retail outlet located at 34 North Stuart Highway, Alice Springs, Northern Territory, comprising premises owned on a freehold basis that house a single warehouse and showroom, and office space;
- (b) The business operated at and from the rural merchandise retail outlet located at Lot 1 Archer Street, Broome, Western Australia, comprising leasehold premises that house three warehouses, one showroom and office space; and
- (c) The business operated at and from the rural merchandise retail outlet located at 26 Gray Street, Hughenden, Queensland, comprising premises owned on a freehold basis that house a single warehouse and showroom.

Each of the Divestiture Businesses is engaged in supplying a range of rural merchandise products (and associated services such as the provision of agronomic advice, where applicable) to farmers, growers and other customers.

Sections 2, 3 and 4 of this Schedule particularise all assets and rights necessary for the Divestiture Businesses in each of Alice Springs, Broome and Hughenden to be viable, effective, stand-alone, independent and long-term competitors in the retail supply of rural merchandise.

2. ALICE SPRINGS

2.1 Freehold premises

- (a) **Address:** 34 North Stuart Highway, Alice Springs, Northern Territory
- (b) **Title particulars:** Certificate of Title Volume 423 Folio 137
- (c) **Legal description:** Unit 4 of allotment 7559 contained in Plan UP 94/020
- (d) **Description of buildings:**
 - (i) 1 x warehouse
 - (ii) 1 x showroom
 - (iii) 3 x offices attached to showroom
 - (iv) 1 x break room
 - (v) Male/female amenities

2.2 Fixed assets

- (a) **Office equipment**
 - (i) Printer
 - (ii) Scanner
 - (iii) Sundry computer equipment
- (b) **Plant & equipment**
 - (i) Telephone system
 - (ii) Poly pipe welder
 - (iii) Furniture
 - (iv) Alarm system
 - (v) Cabinet
 - (vi) Fridge
 - (vii) Forklift
 - (viii) Shipping container
 - (ix) Other office equipment
 - (x) Sundry fittings
- (c) **Motor vehicle**
 - (i) 2010 Toyota Hilux 150 Series

2.3 Inventory

The relevant inventory in possession of the Divestiture Business as at completion of the divestiture, which may include products in one or more of the following categories:

- (a) General merchandise;
- (b) Fencing;
- (c) Animal management;
- (d) Crop chemicals;
- (e) Animal health;
- (f) Water equipment;
- (g) Seed; and
- (h) Fertiliser.

2.4 Records

All business records necessary for the effective operation of the Divestiture Business.

2.5 Employees

Full title	Role description	Employment type description
Branch Manager Senior Account Manager Livestock	Grow and protect the branch with a focus on the next 12+ months to meet financial compliance, safety and staff development objectives.	Permanent
Sales Support Merchandise	Provide merchandise sales and administrative support to the branch.	Permanent
Merchandise Sales Support	Provide merchandise sales and administrative support to the branch.	Casual

2.6 Applicable licences

Nutrien will advise any Proposed Purchaser of the need to obtain a poisons licence for this site (because the current licence is not (or not easily) transferable). Nutrien will assist the Approved Purchaser in the application process, if required by the Approved Purchaser.

2.7 Agreements

- (a) The Divestiture Business currently supplies, or has the right to supply, the following products as agent for the manufacturer of the product:

Manufacturer	Product	Product type
BASF	Canola varieties	Seed
Bayer Australia	Tri-Solfen	Topical anaesthetic and antiseptic solution for pain relief in lambs and calves
Bayer CropScience	Belt [®] 480 SC	Insecticide
Bayer CropScience	Movento [®] 240 SC	Insecticide

Manufacturer	Product	Product type
Bayer CropScience	Precept [®] EC150	Herbicide
Bayer CropScience	Velocity [®] EC347	Herbicide
FMC	Coragen [®]	Insecticide
Nuseed	Monola [®] Canola varieties	Seed
Seed Force	Lucerne SF 730QL	Seed
Sinochem	Roundup ULTRA [®] MAX	Glyphosate formulation for weed control
Sumitomo Chemicals	ProTone [®]	Plant growth regulator

- (b) Nutrien will take all steps necessary to ensure that:
- (i) where possible under the terms of the existing agency agreements relating to the products listed above, each of the agreements is transferred, assigned or novated to the Approved Purchaser; and
 - (ii) where an existing agency agreement does not provide for a transfer, assignment or novation of the sort described above, Nutrien assists the Approved Purchaser to enter into a new agency agreement with the relevant manufacturer in relation to the relevant product.

3. BROOME

3.1 Leasehold premises

- (a) **Address:** Lot 1 Archer Street, Broome, Western Australia.
- (b) **Leased area:** The whole of the land comprised in Certificate of Title Volume 2088 Folio 731
- (c) **Register number:** J489125
- (d) **Commencement date:** 6 February 2016
- (e) **Expiry date:** 5 February 2021
- (f) **Options to renew:** 2 x 3 years

(g) **Description of buildings:**

- (i) 3 x warehouse
- (ii) 1 x showroom (122sqm)
- (iii) Branch manager's office
- (iv) Meeting room - seats 6
- (v) Livestock office - 2 desks
- (vi) Front desk area - 2 desks
- (vii) Kitchen space
- (viii) Admin space
- (ix) Cool room

3.2 **Fixed assets**

(a) **Office equipment**

- (i) Computer equipment
- (ii) Shelving
- (iii) Other office equipment

(b) **Plant & equipment**

- (i) Freezer
- (ii) Table
- (iii) Telephone systems
- (iv) Shelving and pallet racking

3.3 **Leased equipment**

- (i) Hyster H2.5TX forklift

3.4 **Inventory**

The relevant inventory in possession of the Divestiture Business as at completion of the divestiture, which may include products in one or more of the following categories:

- (a) General merchandise;
- (b) Fencing;
- (c) Animal management;
- (d) Crop chemicals;

- (e) Animal health;
- (f) Water equipment;
- (g) Seed; and
- (h) Fertiliser.

3.5 Records

All business records necessary for the effective operation of the Divestiture Business.

3.6 Employees

Full title	Role description	Employment type description
Senior Key Account Manager	Key responsibility is to manage key account relationships and manage the delivery of their service and product requirements across the activities with the aim of protecting, maintaining and growing the whole business.	Limited Tenure
Sales Support Merchandise	Provide merchandise sales and administrative support to the branch.	Permanent
Merchandise Manager	Position manages the integration of tasks across the Merchandise activity and the coordination with other activities - includes management of a team of professional / technical staff. To establish and maintain a region centre of excellence for the merchandise function and provide a professional customer service to internal and external customers and clients.	Permanent
Branch Manager	Grow and protect the branch with a focus on the next 12+ months to meet financial, compliance, safety and staff development objectives.	Permanent
Senior Sales Merchandise and	To optimise branch / division performance by ensuring all accounting and administration	Permanent

Administration	<p>functions are carried out in a professional manner within specified time frames.</p> <p>To promote and grow sales and GP within the region to ensure budget / KRAs are met or exceeded with the aim of protecting, maintaining and growing the whole business</p>	
----------------	--	--

3.7 Applicable licences

Nutrien will advise any Proposed Purchaser of the need to obtain a poisons licence for this site (because the current licence is not (or not easily) transferable). Nutrien will assist the Approved Purchaser in the application process, if required by the Approved Purchaser.

3.8 Agreements

- (a) The Divestiture Business currently supplies, or has the right to supply, the following products as agent for the manufacturer of the product:

Manufacturer	Product	Product type
AgNOVA	Fruition® Natflav® 500	Premium yeast bait to attract and kill fruit flies when used in a baiting mixture with an insecticide
AgNOVA	Fruition® Nova Trap	Lure & Trap for Queensland Fruit Fly
BASF	Canola varieties	Seed
Bayer Australia	Tri-Solfen	Topical anaesthetic and antiseptic solution for pain relief in lambs and calves
Bayer CropScience	Belt® 480 SC	Insecticide
Bayer CropScience	Movento® 240 SC	Insecticide
Bayer CropScience	Serenade® Prime	Soil ameliorant and biofungicide
Bayer CropScience	Confidor® Guard 350SC	Soil insecticide

Manufacturer	Product	Product type
Corteva	Fontelis [®]	Fungicide
Corteva	Zorvec [®] Enicade [®]	Fungicide
FMC	Coragen [®]	Insecticide
Nuseed	Monola [®] Canola varieties	Seed
Seed Force	Lucerne SF 730QL	Seed
Sinochem	Roundup ULTRA [®] MAX	Glyphosate formulation for weed control
UPL	RanMan [®] 400 SC	Fungicide
UPL	MainMan [®] 500 WG	Insecticide

(b) Nutrien will take all steps necessary to ensure that:

- (i) where possible under the terms of the existing agency agreements relating to the products listed above, each of the agreements is transferred, assigned or novated to the Approved Purchaser; and
- (ii) where an existing agency agreement does not provide for a transfer, assignment or novation of the sort described above, Nutrien assists the Approved Purchaser to enter into a new agency agreement with the relevant manufacturer in relation to the relevant product.

4. HUGHENDEN

4.1 Freehold Premises

- (a) **Address:** 26 Gray Street, Hughenden, Queensland.
- (b) **Title particulars:** Title Reference: 20472148; Dealing No: 716464255
- (c) **Legal description:** Lot 2, Registered Plan 713705
- (d) **Description of buildings:**
 - (i) 1 x showroom with office
 - (ii) 1 x warehouse
 - (iii) Kitchen

- (iv) Toilet amenities

4.2 **Fixed assets**

(a) **Office equipment**

- (i) 4 x computers

(b) **Plant & equipment**

- (i) TV and DVD player
- (ii) Shelving and pallet racking
- (iii) Delivery trailer
- (iv) Telephone system
- (v) Generator

4.3 **Leased equipment**

- (i) Hyster H2.5TX forklift

4.4 **Inventory**

The relevant inventory in possession of the Divestiture Business as at completion of the divestiture, which may include products in one or more of the following categories:

- (a) General merchandise;
- (b) Fencing;
- (c) Animal management;
- (d) Crop chemicals;
- (e) Animal health;
- (f) Water equipment;
- (g) Seed; and
- (h) Fertiliser.

4.5 **Records**

All business records necessary for the effective operation of the Divestiture Business.

4.6 Employees

Full title	Role description	Employment type description
Casual Hughenden	Provide merchandise sales and administrative support to the branch	Casual
Sales Support Merchandise	Provide merchandise sales and administrative support to the branch	Permanent
Branch Manager	Grow and protect the branch with a focus on the next 12+ months to meet financial, compliance, safety and staff development objectives.	Permanent

4.7 Applicable licences

Nutrien will advise any Proposed Purchaser of the need to obtain a poisons licence for this site (because the current licence is not (or not easily) transferable). Nutrien will assist the Approved Purchaser in the application process, if required by the Approved Purchaser.

4.8 Agreements

- (a) The Divestiture Business currently supplies, or has the right to supply, the following products as agent for the manufacturer of the product:

Manufacturer	Product	Product type
BASF	Canola varieties	Seed
Bayer Australia	Tri-Solfen	Topical anaesthetic and antiseptic solution for pain relief in lambs in calves
Bayer Australia	Piranha Dip for Sheep	Lousicide for sheep – dip concentrate for treatment of lice on sheep
Bayer Australia	Viper®	Lousicide for sheep – pour-on treatment of ectoparasites on sheep
Corteva	Pixxaro® Arylex® active	Herbicide

Seed Force	Lucerne SF 730QL	Seed
Sinochem	Roundup ULTRA® MAX	Glyphosate formulation for weed control

- (b) Nutrien will take all steps necessary to ensure that:
- (i) where possible under the terms of the existing agency agreements relating to the products listed above, each of the agreements is transferred, assigned or novated to the Approved Purchaser; and
 - (ii) where an existing agency agreement does not provide for a transfer, assignment or novation of the sort described above, Nutrien assists the Approved Purchaser to enter into a new agency agreement with the relevant manufacturer in relation to the relevant product.

Confidential Schedule 5
