These terms of trade as amended from time to time (Terms) apply to all Products transactions with us, where you have agreed to be bound by these Terms; and/or where you use your PGG Wrightson Seeds Account.

1. DEFINITIONS
Account means a monthly charge account to buy Products from us with deferred payment.
Application means your application to open an Account.
Customer means you as the purchaser of Products.
Default Event has the meaning given to it in clause 7.1.
PGWS, we or us means PGG Wrightson Seeds Limited and each of our subsidiaries and trading entities including PGG Wrightson Grain, PGG Wrightson Turf, Agricom and Canzan Maze Seed.
PPSA means the Personal Property Securities Act 1999.
Products means all products, merchandise, seeds, grains and services (including services and advice provided for a fee, and including agency products and services) supplied or to be supplied by or through us to you from time to time, including:

- the products, merchandise, seeds, grains or services described or referred to (whether by item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you; and
- solely for the purposes of the application of clauses 5 and 6:
  - a. any objects, products or mass which the products, merchandise, seeds or grain subsequently become a part of or an accession to; and
  - b. all livestock, which are grown or improved by the use or consumption of such products.
Protected Cultivar means a cultivar for which plant variety rights have been applied for or granted under the Plant Variety Rights Act 1987, or which are otherwise the subject of intellectual property rights held by PGWS or a third party.
Warranty/Warranties means guarantees, representations, conditions, guarantees, duties or liabilities, or customer rights.

2. APPLICATION AND ACCOUNT
2.1 You must tell us of any changes to your contact details or to any of the other information given to us on your Application. We will assign a Customer number to your Account. Invoices, statements and other information directly relating to your dealings with us will be sent to you by email unless you request otherwise. We may impose a credit limit on your Account and alter that credit limit without notice to you. If you exceed your credit limit we may refuse to supply Products to you.

2.2 On request by you we will:
- a. provide you with a personal guarantee to be provided in respect of your obligations to us by a person or entity satisfactory to us in our sole discretion; and
- b. provide, or arrange for another person or entity satisfactory to us in our sole discretion to provide, a bond or surety in an amount that we may require.
An such guarantee, bond or other surety must be on such terms as we consider appropriate.

2.3 We may close or suspend your Account at any time. On closure of your Account:

- a. all your obligations to us continue under these Terms until all of your obligations to us have been satisfied in full or our satisfaction.

3. ORDERS
3.1 A contract will come into existence between us once your Product order has been accepted by us. We will accept your order by giving you a delivery docket or invoice, or electronic confirmation of the order. However, we may decline your order if we are already sold out of the Product, invoice or electronic confirmation will form part of the contract between us for the relevant Product. You cannot cancel an order for Product after acceptance.

3.2 We will use our reasonable endeavours to source all Products ordered by you and quoted by us. We may close or suspend your Account at any time. On closure of your Account:

- a. all your obligations to us continue under these Terms until all of your obligations to us have been satisfied in full or our satisfaction.

4. TERMS OF PAYMENT
4.1 You will pay us the price plus GST for the Products stated in the delivery docket or invoice plus any applicable freight or incidental charges. Unless we specify otherwise, the price must be paid by you to PGWS by the 20th day of the month following purchase. We may choose to pass on to you external and internal legal costs of payment processing such as bank cheque processing fees and credit card surcharges for payments you make to us and payments we make to you. PGWS may in its sole discretion write off small credit balances on your Account.

4.2 Interest on overdue payments not made within the period set out in clause 4.1 will be charged on a daily basis at 21.5% pa. Any prompt payment or other discounts may be reversed for overdue payments at our discretion.

4.3 All amounts payable by you to be paid in full in cleared funds, without any set-off, counterclaim or deduction. PGWS may deduct (without prior notice) any money that you owe to PGWS from money that we owe to you or that PGWS holds on your behalf. You authorise PGWS to appropriate (without prior notice) money:

- a. held by PGWS or any subsidiary or related company on your behalf on any account in or towards payment of any amount owing to PGWS; and
- b. received by PGWS from you or on your account in payment of any amount owing to PGWS.

4.4 PGWS may at any time (including when amounts are owing in respect of more than one transaction) apply or appropriate any monies received from you in any manner (and in any order and to any amounts owing to PGWS or any vendor) PGWS thinks fit (despite any direction to the contrary and whether before or after any default by you).

4.5 A payment will not be treated as received until the date on which that payment is credited to the bank account in the ordinary course of business. You must pay any costs associated with the method of payment and such costs may be added to (and form part of) the price. We may at any time specify the method of payment you must use. If we are required by law to repay any amount on account of the price that at time will be deemed not to have been paid to us and we will be restored to the position it would have been in had no such payment been made. We are not obliged to deliver any Products if any moneys due and payable by you remain outstanding.

5. DELIVERY, TITLE AND RISK
5.1 We will not be liable for any delay in delivery of any Products to you. If you do not take delivery by the delivery date specified, you will pay reasonable storage costs until you take delivery.

5.2 All Products are at your risk from the point of loading onto the carrier or being made available for uplifting by you, whether or not you take delivery of the Products at that time.

5.3 Ownership and title to all Products remains with us, as the case may be, and only passes to you once all money you owe us, on any account, is paid for in full, (even if you incorporate the Products with other items, including agency products and services) supplied or to be supplied by or through us to you from time to time, including:

- a. the products, merchandise, seeds, grains or services described or referred to (whether by item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you; and
- b. solely for the purposes of the application of clauses 5 and 6:
  - a. any objects, products or mass which the products, merchandise, seeds or grain subsequently become a part of or an accession to; and
  - b. all livestock, which are grown or improved by the use or consumption of such products.

6. SECURITY INTEREST
6.1 A contract will come into existence between us once your Product order has been accepted by us. We will accept your order by giving you a delivery docket or invoice, or electronic confirmation of the order. However, we may decline your order if we are already sold out of the Product, invoice or electronic confirmation will form part of the contract between us for the relevant Product. You cannot cancel an order for Product after acceptance.

6.2 You warrant that:

- a. you hold the Products as our securee; and
- b. you store the Products in a manner which will protect them from damage or deterioration, and separately from your own goods or otherwise ensure that the Products are separately identified and identifiable. We authorise you in the ordinary course of your business, to use the Products or sell them for full consideration. This authority is revoked immediately and automatically if a Default Event occurs. And may also be revoked by notice in writing to you at any time in our sole discretion; and
- c. you must insurge the Products for their full insurable value and, if we require, have or the vendor’s interest in the Products for the time being; and
- d. regardless of section 109 of the PPSA, we may repossess the Products and dispose of them for our own benefit, if a Default Event occurs. For this purpose, we, and/or our agents may at any time without notice to you, enter any place where we or our agents believe the Products may be kept and remain there to take whatever action may be required to repossess the Products. You indemnify us and our agents for all costs and liabilities (including our legal costs on a solicitor/client basis) in connection with the repossessions, storage or resale of the Products (including any shortfall arising from resale at a lower price).

6.3 If you sell or use any Products before the transfer of ownership and title in accordance with clause 5.3, the proceeds of such sale or use (in whatever form) are our property, and you must pay all such proceeds to us or otherwise deal with such proceeds as we direct. Nothing in this clause can be construed as limiting any dealing with the Products by you under the PPSA without our consent.

6.4 You and our guarantor hereby agree in favour of each other all your present and future secured debts owing by you to us (or to any person specified under the PPSA as being a successor in title to you) and or granted under the Plant Variety Rights Act 1987, or which are otherwise the subject of security interests.

6.5 PPSA means the Personal Property Securities Act 1999.

6.6 You and each guarantor hereby agree in favour of each other all your present and after-acquired property on the personal property securities register.

6.7 We will not be liable to any extent for loss or damage by you to any Products in the course of transportation by you or for any reasons.
b. we may suspend or terminate the supply of Products to you and any of our other obligations to you under these Terms; and
c. all amounts outstanding by you under any contract between us and under your Account, whether or not due for payment, immediately become due and payable; and
d. you irrevocably give us and our agents without prior notice licence to enter any place or premises where we or they believe the Products may be kept and remain there to take whatever action may be required to repossess the Products. You indemnify us in respect of any such obligations and costs (including our costs on a solicitor/client basis) in connection with the repossession, storage or resale of those Products (including any shortfall arising from the sale of the Products at a lower price).
e. we may enforce any security interest or other security granted to us which secures your obligations to us; and
f. we may (without your consent) appoint a receiver in respect of any Products and any receiver is authorised to do anything referred to in these Terms and otherwise to exercise all rights and powers conferred on a receiver by law; and
9. RETURNS
9.1 Subject to clauses 9.2 and 9.3, if you are not satisfied with the Products provided by us for any reason, you can return the Products (other than services) to us within 30 days of your taking delivery of the Products.
9.2 Products (other than services) can only be returned to us if:
   a. they do not require refrigeration, and/or are not close to any expiry date (as determined by us);
   b. they are not custom-made or procured for you (seed that you have ordered to be custom-made for you), and/or
   c. they are not custom-made or procured for you (seed that you have ordered to be custom-made for you), and/or
   d. you provide evidence of purchase from us, to our satisfaction.
10. LIABILITY
10.1 If due solely to PGWS' act, omission or negligence, any Product is defective or does not meet any of the Product's description, condition, unencumbered, quality or fitness for any purpose. In that event, we will at our option:
   a. repair or replace it, or
   b. pay compensation to a maximum amount that does not exceed its purchase price. 10.2 All statutory and other implied Warranties to be given, made, performed or met by PGWS, or in any way connected with our supply of Products, are negated and excluded to the fullest extent that the law may be contracted out of. This Term binds each trustee in his or her capacity as trustee and personally. If PGWS as agent for a supplier pays them for goods or services you have purchased, you may refuse from exercising that power or discretion, at our absolute and unfettered discretion.
11. LIABILITY
11.1 Clause 10.1 sets out your sole rights to compensation/remedies from us for any matter covered by these Terms. Without limiting clause 10.1, neither we nor our agents will be liable in any way (including negligence, tort, equity or to you or to any other person in connection with this or any other contract or the supply or failure to supply all Products or the purported exercise of our rights under these Terms for any:
   a. loss whatsoever of income, profits, savings, goodwill or for any indirect or consequential loss or special, exemplary or damages; or
   b. amount exceeding the purchase price of the Products; or
   c. amount not claimed by you within the relevant period of the circumstances giving rise to the claim.
11.2 You must use all Products strictly in accordance with any directions, instructions and terms contained on Product packages, product labels and any other product information supplied with the Product(s).
12. CUSTOMER'S LIABILITY
12.1 You are deemed to be bound by all transactions undertaken with us, whether or not a person undertaking a transaction has actual or ostensible authority to do so. If the Customer includes two or more persons, those persons' liability is joint and several. If the Customer is a trust, these Terms bind each trustee in his or her capacity as trustee and personally. If PGWS has appointed a trustee to you as an independent trustee, that trustee's liability to PGWS will be limited to the assets of the trust at the time of any default, except for willful negligence or deliberate default by such trustee. In the event of the insolvency of any such trustee, has given a prior written notice to PGWS that such trustee has provided a guarantee personally in respect of your obligations pursuant to this or any other contract.
13. PGWS' ROLE AS AGENT
13.1 PGWS may be a representative advising (and where PGWS determines, PGWS may act as for) either or both the supplier and/or purchaser in respect of the sale and purchase of any Products.
13.2 If we are to credit any amount on account of the purchase price to the supplier for whom we are agent and/or debit your account on account of the purchase price before you have paid the purchase price to us (which we are not obliged to do), you agree that:
   a. the purchase price payable by you under that contract will not be reduced and the purchase price will be payable to PGWS immediately, and
   b. all the supplier's rights under that contract including those relating to the payment of the purchase price for those Products and the right to a lien or security interest (to the extent such law may be contracted out of). You acknowledge that these Terms contain clauses that are for the benefit of any third party vendor of Products, and may for the purposes of the Part 2, subpart 1 of the CCLA be enforced by that third party vendor.
14. GENERAL
14.1 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
14.2 Enforceability: You will not be entitled to assign your rights under these Terms to another party.
14.3 Entire Agreement: As set out in this clause, together the Application and these Terms are the entire agreement between us, you and the guarantor(s), and supersede all representations, agreements and other communications made by us. Certain Terms in respect of specific Products that may appear on the reverse of any of PGWS' invoices/terms or other documents may be inconsistent with the CCLA, that part prevails over the relevant provision of the CCLA.
14.4 Our Decisions and No Waiver:
   a. any power or discretion conferred on us by these Terms may be exercised by us, or we may refrain from exercising that power or discretion, at our absolute and unfettered discretion.
   b. if we do not exercise any of our rights or remedies, that will not be a waiver of those rights or remedies. Any waiver we give must be in writing.
14.5 Severability: If any part of these Terms is illegal, unenforceable or invalid, the remaining Terms are not affected.
14.6 Variation: We may in our absolute discretion change these Terms at any time by publication on our Group website www.pgwrightsonseeds.com. The change will take effect from the time loaded. Your transactions with us are covered by the then current Terms at the time of the transaction.
14.7 Typographical Errors: We reserve the right to correct any typographical or clerical errors in any order or quoted or contained in an order or quotation, or in any invoice, statement or other document.
14.8 Inconsistency: If there is any inconsistency between these Terms and the terms of any order that may be lodged by you and with any delivery docket or invoices or other communiques or to you, these Terms will prevail subject to clause 14.3 and/or unless we specify otherwise.
14.9 Consumer Guarantees Act and Fair Trading Act: You agree that: the products are both supplied and acquired in trade; that your Application is made for business/trade purposes; that the Consumer Guarantees Act 1993 does not apply and this clause applies in place of the provisions of the Consumer Guarantee Act; to contract out of sections 9, 12A, 13, and 14(1) of the Fair Trading Act; that you have not relied on any representations made by PGWS in entering into these terms or purchasing the Products; that this clause is fair and reasonable; and that you had the opportunity if you chose to negotiate these terms and receive advice from or be represented by a lawyer in relation to these terms.
14.10 Disputes: Any dispute between us and you will be discussed between us in the spirit of goodwill.
14.11 Governing Law: New Zealand law governs this agreement and the parties submit to the exclusive jurisdiction of the New Zealand courts.
14.12 Relationship: The relationship between you and PGWS is as independent purchaser and seller. There is no partnership, joint venture, employment or agency relationship unless we state otherwise. An agent or representative of PGWS is not responsible for, and has no independent authority to bind, any representative or warranties or agreements that PGWS has not confirmed in writing. PGWS is not bound by unauthorised statements.
15. PROTECTED CULTIVARS
15.1 Protected Cultivars are marketed or sold by PGWS under conditions stipulated by the breeder or holder of any other intellectual property rights in the Protected Cultivar (in this clause referred to as together a breeder). Such conditions may include protection granted under the Plant Variety Rights Act 1977 or by a sprung provision in a local law.  The agent of any independent supplier for whom PGWS as agent sells any Protected Cultivar has no responsibility to PGWS and has no responsibility in respect of any security interest(s) shall then be subrogated in favour of and enforceable by PGWS.
15.2 The purchaser of any Products or services shall indemnify and hold harmless PGWS from and against any claim, loss, liability, suit, or proceeding brought against PGWS by any party. We give no assurance as to the ability of our supplier to supply any Products or services, including those in Part 3 of the CCLA, are negated and excluded to the fullest extent that the law may be contracted out of. Each person dealing with PGWS as agent, or in respect of the sale and purchase of Products, not supplied by PGWS, agrees that it will not make or support any claim or proceeding against PGWS.
15.3 Unless otherwise specified, where PGWS as agent for the supplier arranges a contract for the supply of Products not supplied by it, you will pay all amounts owed to the supplier to PGWS, which will then promptly forward those amounts to the supplier for your account, subject to any right of set-off or right to deduct commission or other amounts.
15.4 Commission may be paid by both parties when PGWS has acted for both parties to a transaction. Where PGWS acts as agent for supplier, PGWS gives warranties to the purchaser. Clauses 10 and 11 apply to PGWS’s services as agent. The CCLA (and not clauses 10 and 11) applies directly between the seller and purchaser unless the supplier’s terms of sale have been incorporated into the sale and state that they prevail over any inconsistent provision of the CCLA.
15.5 Where PGWS is acting as your agent, you acknowledge that PGWS may disclose your name and contact details, and any other details relevant to the transaction to the other party to the transaction.
15.6 PGWS may in its sole discretion register a security interest as agent for a supplier but has no obligation to do so.
15.7 Where PGWS as agent for a supplier pays them for goods or services you have purchased, PGWS may receive a rebate, commission or fee from the supplier for providing marketing and credit services.
16.2 Payment: You will not be entitled to assign your rights under these Terms to another party.
16.3 Enforceability: You will not be entitled to assign your rights under these Terms to another party.
16.4 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.5 Enforcement: You will not be entitled to assign your rights under these Terms to another party.
16.6 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.7 Enforcement: You will not be entitled to assign your rights under these Terms to another party.
16.8 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.9 Enforcement: You will not be entitled to assign your rights under these Terms to another party.
16.10 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.11 Enforcement: You will not be entitled to assign your rights under these Terms to another party.
16.12 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.13 Enforcement: You will not be entitled to assign your rights under these Terms to another party.
16.14 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may assign our rights under these Terms to another party.
16.15 Enforcement: You will not be entitled to assign your rights under these Terms to another party.