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 PGWS 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 or you means the person or entity buying the Products from PGWS.

Default Event has the meaning given to it in clause 7.1.

PGWS, we or us means PGW Wrightson Seeds Limited and each of our subsidiaries and trading entities including PGW Wrightson Grain, PGW Wrightson Turf, Agricom and Corson Maize Seed.

PPSA means the Personal Property Securities Act 1999.

Products means all merchandise, product, seeds, grains or services (including services provided or to be provided by us or to us in our sole discretion) 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 name, brand, model number 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:
  - i. where any products, merchandise, seeds or grain purchased by you from us are your inventory (as defined in the PPSA), then also inventory for so long as you hold it as such; and
  - ii. any objects, products or mass which the products, merchandise, seeds or grain subsequently become a part of or an accession or accessory to; and
  - iii. in the case of products which are used up or consumed

- A. all resulting crops and plant product, whether harvested or not; and

- b. all livestock, which are grown or improved by the use of or consumption of such products.

Protected Cultivar means a cultivar for which plant variety rights have been applied for or granted under the Plants (Varietal Protection) Act 1977 which are otherwise the intellectual property rights held by PGWS or a third party.

Warranty/Warranties means warranties, representations, conditions, guarantees, duties or liabilities, or customer.

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.

2.2 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 you with Products.

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

- a. all your rights under these Terms terminate, except for any rights that have accrued to you prior to the closure of your Account; and

- b. all your obligations to us under these Terms until all obligations under these Terms have been satisfied in full to our satisfaction.

3. ORDERS

3.1 A contract will come into existence between us once your Product order has been accepted by us and you have acknowledged that the order is confirmed by us in writing. By placing an order with us you agree to these Terms and that you are 18 or over.

3.2 We may accept or reject any order in whole or part. We may change the price of any Product at any time and without notice. You must pay by the 20th day of the month following purchase. We may at any time specify the method of payment and such costs may be added to (and form part of) the price. We may at any time vary the method of payment you must use. If we are required by law to repay any amount on account previously paid by you, that amount will be deemed not to have been received by 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.

4. TERMINATION OF CONTRACT

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

4.2 Interest on overdue payments will be charged within the period set out in clause 4.1 will be charged on a daily basis at 25.5% pa. Any prompt payment or other discounts may be reversed for overdue payments at our discretion.

4.3 All amounts payable by you will 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) any money owing to:

- 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 moneys 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 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 previously paid by you, that amount will be deemed not to have been received by 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 uplift by you, whether or not you take delivery of the Products at that time.

5.3 Ownership of title to and title to any Products remains with us, as the manufacturer, until you have paid us in full and sufficiently cleared funds for all amounts due.

5.4 All rights of title to any Product under these Terms are reserved to us until you have paid in full and sufficiently cleared funds for all amounts due.

5.5 Until title in the Products passes to you:

- a. you will keep such Products safe and secure;

- b. you must 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 identifiable. You authorise us in the ordinary course of your business, to use the Products or sell them for full consideration. This authority is revoked immediately and automatically on the occurrence of a Default Event and may also be revoked by notice in writing to you at any time in our sole discretion; and

- c. you must insure the Products for their full insurable value and, if we require, have or the vendor’s interest in the Products noted on your insurance policy; and

- d. you will, whether or not at our request and to the extent remain with us, as the manufacturer, if at any time you once own money owing to us, on any account, is paid for in full, (even if you incorporate the Products with other items, including without limitation those items described in the definition of Products in clause 2.1) and we shall reserve and agree that the retention of title is a security interest for the purposes of the PPSA.

5.6 All guarantees, bonds or other sureties are provided to secure the payment of moneys owing to us and are subject to the following conditions:

- a. all security agreements, guarantees, bonds or other collateral security shall be for the purpose of securing payment of all moneys owing to us either now or hereafter;

- b. if and when we acquire any security interest (or the proceeds of sale thereof) for the purpose of securing payment of moneys owing to us, we may at any time use such security interest for the purposes of the PPSA.

5.7 If you sell or use any Products before the transfer of ownership and title in accordance with clause 5.5, 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 authorising any dealings by you with the Products, unless we permit you. We may sue you for the purchase price even where ownership of the Products has not passed to you.

6. PERSONAL PROPERTY SECURITIES ACT 1999

6.1 You and each guarantor hereby agree that in the event that you are in default, we may seize any Products and any proceeds. We may register a security interest on the PPSR in our name as security interest for the purposes of the PPSA.

6.2 If the Products the subject of the security interest subsequently become part of some other product by manufacture, then in those circumstances these Terms can be construed as limiting the application of sections 82 to 86 of the PPSA. Nothing in section 114(1)(a), 120(1), 122, 133 or 134 of the PPSA applies. Your rights in sections 116, 120(1), 125 to 127,129 and 131 of the PPSA do not apply.

6.3 You waive your right under section 148 of the PPSA to be given a copy of any verification statement relating to the security interest and agree that we may register. The security interests granted by you take effect as a transfer of any accounts receivable or chattel paper, which are the proceeds of Products.

6.4 We will use the benefit of any security interest, security agreement, encumbrance, charge or mortgage given by you or any guarantor or other grantor of surety to us to secure payment and performance of your obligations under these Terms. You will not without our prior written consent grant any lien or security interest over the Products to any other party whatever nor commit any act or omission that would give any other party a security interest over those Products until all such Products are paid for in full.

7. DEFAULT EVENT

7.1 A Default Event occurs when any of the following occurs without our prior written consent:

- a. you fail to comply with these Terms, or any other contract with us, including failing to pay us on time or exceeding your approved credit limit; or

- b. you reasonably believe that there is a substantial likelihood that you may be unlikely to be able to immediately pay any sums owing to us or a vendor of Products; or

- c. information you have given us, or which is given to us on your behalf, is untrue, misleading or deceptive in a material respect or otherwise in that it is material to us in our sole discretion; or

- d. you no longer carry on business or threaten to cease carrying on business; or

- e. where you are a company, trust or other organisation, your ownership or effective control is transferred; or

- f. the nature of your business is materially altered; or

- g. any guarantor or other grantor of surety of your obligations under these Terms is in default, or the events referred to in any such security interest are triggered; or

- h. if at any time in our view any Products are at risk.

7.2 If a Default Event occurs then without prejudice to our other remedies:

- a. we will be entitled to suspend all or any part of any contract that we have with you which remains unperformed; and

- 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, will, 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 and
12.3 You indemnify us from and against any liabilities, losses, damages, costs (including legal costs on a solicitor/client basis) or claims which we incur or suffer in the course of our dealings with you under these Terms and in respect of any breach by you of these Terms except if we are fraudulent or negligent.

13. PGWS' ROLE AS AGENT

13.1 PGWS may be a representative advising (and where PGWS determines, PGWS may act as) either or both the supplier and/or purchaser in respect of the sale and purchase of any Products.

13.2 If we elect to credit any amount on account of the purchase price to the supplier for whom we act as agent and/or the purchaser, we may debit the amount to the account of the other party on account of the purchase price before we 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 of sale will not be reduced and the purchase price will be payable to the supplier.
b. all the supplier's rights under that contract including those relating to the payment of the price for those Products and the Products themselves (including the right to enforce any security interest) shall pass to the supplier.

13.3 We are not responsible or liable in any way for anything done or not done by or on behalf of either party to a contract arranged by us (including by us as agent), including non-payment of any amount owed by any party. We give no assurance as to the ability of our supplier to supply any Products or perform any obligations, including the ability to pay any money.

13.4 Each person dealing with PGWS as agent, or in respect of the sale and purchase of Products not made by PGWS, agrees that it will not make or support any claim or proceeding against PGWS.

13.5 Unless otherwise specified, where PGWS as agent for the supplier arranges a contract for the supply of Products not supplied by it, it will pay all invoices owed to the supplier. PGWS, which will then promptly account to the supplier for that amount, subject to any right of set-off or right to deduct commission or other amounts.

13.6 Commission may be paid by both parties when PGWS has acted for both parties to a transaction. Where PGWS acts as agent for supplier vendor, PGWS gives no 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 supplier 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.

13.7 Where PGWS is acting as 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.

13.8 PGWS may in its sole discretion register a security interest as agent for a supplier but has no obligation to do so.

13.9 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.

14. GENERAL

14.1 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may transfer our rights and obligations under these Terms by notifying you in writing.

14.2 Enforcement: You will pay us on demand all costs (including legal costs on a solicitor/client basis) incurred by us in connection with any default by you or enforcement action taken by us.

14.3 Entire Agreement: Except 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 of Sale may include specific terms relating to the payment of the purchase price which appear on the reverse of any of PGWS' invoices/statements or other specific terms may apply in conjunction with or in place of these Terms if we specify. For Products purchased from our online websites, these Terms, the Application and any website Terms of Use in respect of the order determined by us, if any, in lieu of these Terms are 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 delay or 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.
c. Severability: If any part of these Terms is illegal, unenforceable or invalid, the remaining parts of these Terms and any affected provisions are unaffected.

14.5 Variation: We may in our absolute discretion change these Terms at any time by publication in our Group website www.pggwrightsonseeds.com. The change will take effect from the time we publish it.

14.6 Variation: We reserve the right to correct any typographical or clerical errors in any invoice or document or in an order or quotation, or in any invoice, statement or other document.

14.7 Inconsistency: If there is any inconsistency between these Terms and the terms of any order that may be lodged by you or the breeder (or both the breeder or you or us or us, these Terms will prevail subject to clause 14.3 and/or unless we specify otherwise). 

14.8 Consumer Guarantees 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 outcasts of the provisions of the Consumer Guarantees Act.

14.9 Governing Law: New Zealand law governs this agreement and the parties submit to the exclusive jurisdiction of the New Zealand courts.

14.10 Disputes: Any dispute between us and you will be discussed between us in the spirit of cooperation.

14.11 Relationship: The relationship between you and PGWS is as independent purchaser and seller and there is no partnership, joint venture, agency or fiduciary relationship unless we specify. An agent or representative of PGWS is not authorised to make any representations, 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 protected cultivar or variety (including Patents or Registered Trademarks: this clause 15 referred to together as a breeder). Such conditions may include protection granted under the Plant Variety Rights Act 1987. The Protected Cultivars may also be sold subject to any other conditions in the breeder's application for the protected trademark or patent.

15.2 You may not grow, trade or transfer any Protected Cultivar or the progeny of any Protected Cultivar, for further multiplication, without the written authority of the relevant breeder or PGWS.

15.3 You must not grow, trade or transfer any Protected Cultivar or the progeny of any Protected Cultivar, for further multiplication, without the written authority of the relevant breeder or PGWS.

15.4 Registered trademarks of Protected Cultivar must not be reproduced without PGWS' prior written authority.