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 PGW-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 organization to whom you are purchasing of 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 its subsidiaries and trading entities including PGW-Wrightson Grain, PGW-Wrightson Turf, Agricom and Corson Maze Seed.

PPSA means the Personal Property Securities Act 1999.

Products mean all products, merchandise, seeds, grains and services (including services and advice provided for no fee, and 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 the 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:

  i. where any such Products, seeds or grain are purchased by you from us as 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 to; or

  iii. in the case of products which are used up or consumed:

   a. all resulting products from such product, whether presently patented or not; 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 Varieties Act 1987, or which are otherwise the subject of intellectual property rights held by PGWS or a third party.

Warrantiesmean 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. issue a formal written 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 other surety in an amount we specify to secure your obligations to us.

Any 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 rights are immediately terminated, except for any rights that have accrued to you prior to the closure of your Account; and

- b. all your obligations to us continue under these Terms until all of your obligations to us 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. We will accept your order by giving you a delivery docket or invoice, or electronic confirmation for online purchases. We may refuse to supply Products:

- a. where any such Products, seeds or grain are purchased by you from us as your inventory (as defined in the PPSA), then also inventory for so long as you hold it as such; and

- b. when any such Products, seeds, grains or services described or referred to (whether by the product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you; and

- c. solely for the purposes of the application of clauses 5 and 6:

  i. where any such Products, seeds or grain are purchased by you from us as 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 to; or

  iii. in the case of products which are used up or consumed:

   a. all resulting products from such product, whether presently patented or not; and

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

(c) Agricom Terms of Trade

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 delivery. 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 for administration efficiency.

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%. Any prompt payment or other discounts may be revoked for overdue payments at our discretion.

4.3 All amounts payable by you to us 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 deduct such amounts (without prior notice) in the following circumstances:

- 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 fits (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 which the original payment was made or to the account of any other entity in which we deal with you. 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 amount will be deemed not to have been recovered 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 uplifting by you, whether or not you take delivery of the Products at that time.

5.3 Ownership of 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 without limitation those items described in the definition of Products in clause 2). You acknowledge and agree that the retention of title is a security interest for the purposes of the PPSA.

5.4 Until title in the Products passes to you:

- a. you hold the Products for us as our bailee and

- 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 identified or 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 upon 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 our or the vendor’s interest in the Product noted on your insurance policy.

5.5 If you sell 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 an authorising any dealing by you with the Products, unless we permit. 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 charge in favour of all your present and after-acquired property on the terms contained in the Auckland District Law Society form of General Security Agreement current at the time of signing the Application. You also grant to us a specific security interest in all Products (and all proceeds) supplied or to be supplied by us and in any objects, products or mass which the Products subsequently become a part of or an accession to or are to be used to secure all payments under these Terms and all moneys owing by you to us from time to time. You will do all things necessary so as to enable us to register financing statements on the Personal Property Security Register (PPSR), and to enable the specific security interest to be a first ranking perfected security interest over those Products and any proceeds. We may register a security interest on the PPSR in our name as secured party even where we are acting as an agent.

6.2 If the Products the subject of the security interest subsequently become part of other product or mass, then nothing in these Terms can be construed as limiting the application of section 106 of the PPSA, which states that a security interest (as defined in the PPSA) at any time in our view any Products are at risk.

6.3 We will be entitled to take prompt action (whether before or after any default by you) to seize and repossess the Products, and any proceeds or chattel paper, which are the proceeds of Products.

6.4 We may use the benefit of any security interest, security agreement, encumbrance, charge or mortgage given by you or any guarantor or other grantor of security to us to secure payment and performance of the 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 or 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 Default Event means any of the following which 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; and

- b. we reasonably believe that you are 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 a way that is material to us in our sole discretion; or

- d. you engage in any activity which we consider to be commercial 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 security of your obligations under these Terms is in default with us, or the events in this clause apply to them; or

- h. 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 or cancel all or any part of any contract that we have with you which remains unperformed; and

- b. we will be entitled to take further steps as seem expedient.

Our customer monthly terms of trade have recently been updated effective as of 1 October 2017. View our terms of trade online at www.agricom.co.nz.
12.1 You are deemed to be bound by all transactions undertaken with us, whether or not any
10.1 If due solely to PGWS' act, omission or negligence, any Product is defective or does not
9.2 Products (other than services) can only be returned to us if:
9.1 Subject to clauses 9.2 and 9.3, if you are not satisfied with the Products provided by us for
9.2 Products (other than services) can only be returned to us if:
8.1 We will only use your personal information for purposes permitted by law including relating to your dealing with us, to ensure that you are aware of these Terms and to exercise our rights under these Terms. We may use and disclose your personal information:
8.1.4 PGWS will only disclose your personal information to a third party if we are satisfied that:
a. you do not require refrigeration, and/or are not close to any expiry date (as determined by us);
b. they are not custom-made or prepared for you (e.g. you have ordered that you want to be supplied in a blended, coated or treated form) and we have agreed otherwise;
c. they are completed to your order and delivered in accordance with the terms of your contract with us;
d. we are satisfied that your condition has not deteriorated and you pay for their return;
9.3 Clause 9 sets out your sole rights to return Products. If goods are defective, clause 10.1 applies. Products sold by PGWS as agent for any other party may not under any circumstances be returned.
10.1 If you purchase Goods, our policy for the sale of Goods is to sell them at their retail price.
10.2 All statutory and other implied warranties to be given by us, made, performed or met by PGWS, including those in reference to quality, fitment and condition, are excluded.
12.1 You are deemed to be bound by all transactions undertaken with us, whether or not any
12.2 For the avoidance of doubt, nothing in these Terms will have the effect of containing any security interest. PGWS reserves the right to enforce any security interest that shall then be subrogated in favour of and enforceable by PGWS.
13.1 PGWS may be a representative advising (and where PGWS determines, PGWS may act as agent for) either or both the supplier and/or purchaser in respect of the sale and purchase of any Products.
10.2 If we elect to credit any amount on account of the purchase price for 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 for the Products is reduced by the amount so credited 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 price of those Products are assigned to us (without the right to enforce any security interest) shall then be subrogated in favour of and enforceable by PGWS.
13.2 If we elect to credit any amount on account of the purchase price for 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 for the Products is reduced by the amount so credited and the purchase price will be payable to PGWS immediately; and
15. PROTECTED CULTIVARS
13.6 Commission may be payable by both parties when PGWS has acted for both parties to a transaction. PGWS as agent for supplier, PGWS gives no Warranties to the purchaser. Clauses 10 and 11 apply to PGWS’s services as agent. The CCLA (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.
13.9 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 assign, sub-contract or charge the rights we have under these Terms to a third party at any time, without giving you any notice or obtaining your consent to do so.
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.
13.5 Unless otherwise specified, where these Terms apply to you and any other person or parties to you, including under Part 3, subpart 4 of the CCLA unless expressly stated. PGWS can elect in its sole discretion whether these Terms or any law inconsistent with these Terms applies, 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.
14.4 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.
13.1 Commission may be payable by both parties when PGWS has acted for both parties to a transaction. Where PGWS acts as agent for supplier, PGWS gives no Warranties to the purchaser. Clauses 10 and 11 apply to PGWS’s services as agent. The CCLA (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.
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.pgvygovernance.com. The change will take effect from the time you are notified. Your transactions with us are covered by the then current Terms at the time of the transaction.
14.8 Inconsistency: If there is any inconsistency between these Terms and the terms of any order or contract or the supply or failure to supply any Products or the purported exercise of our rights under these Terms for any:
a. loss whatsoever including loss of income, profits, saving or goodwill or for any indirect or consequential loss or special or exemplary damages; or
b. amount exceeding the purchase price of the Products; or
c. amount not claimed by you in respect of the circumstances giving rise to the claim.
12.1 CUSTOMER’S LIABILITY
12.2 You are deemed to be bound by all transactions undertaken with us, whether or not any
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 specify. An agent or representative of PGWS is not responsible for any representation, warranties or agreements that PGWS has not confirmed in writing. PGWS is not bound by unauthorised statements.
13. PROTECTED CULTIVARS
13.2 If we elect to create 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 for the Products is reduced by the amount so credited 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 price of those Products are assigned to us (without the right to enforce any security interest) shall then be subrogated in favour of and enforceable by PGWS.
13.3 PGWS reserves the right to enforce any security interest if not otherwise stated that shall then be subrogated in favour of and enforceable by PGWS.
13.4 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.
13.5 Unless otherwise specified, where PGWS as agent for the supplier arranges for 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 pass on the amount to the supplier for your account, subject to any right of set-off or right to deduct commission or other amounts.
13.8 PGWS may in its sole discretion register a security interest as agent for a supplier but has no obligation to do so.
13.3 PGWS reserves the right to enforce any security interest if not otherwise specified that shall then be subrogated in favour of and enforceable by PGWS.