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 Wrighton Account.

1. DEFINITIONS

Account means a monthly charge account to buy Products from us with deferred payment.

Application means any application you open an Account or do or refer to (whether by item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you;

Appraiser means a person engaged by us to assess or value livestock, plants, or other assets.

PGW means PGG Wrighton Limited or any of our subsidiaries and trading entities, both separately and altogether as part of the PGG Wrighton Limited Group.

PPSA means the Personal Property Securities Act 1999.

Terms means any terms and conditions which are part of the contract between us and you and which are specified in these Terms.

2. APPLICATION AND ACCOUNT

2.1 You must tell us of any changes to your contact details or to any other of the information given to us in your Application or in any statement we give you in relation to your Account. Information 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 us:

a. arrange for 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 a third person or entity satisfactory to us in our sole discretion to provide, a bond or other security in an amount we specify to secure your obligations to us.

Any such guarantee, bond or other security 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 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 terminate only if 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. Any additional terms we include on a delivery docket, invoice or electronic confirmation will form part of the contract between us for the relevant Product. You cannot cancel an order for Product after we accept it.

3.2 We will use our reasonable endeavours to source all Products ordered by you and quoted by us. You will indemnify us and our respective agents for all costs and liabilities (including our legal costs on a solicitor/client basis) in connection with the repossession, storage or resale of the Products (including any shortfall arising from resale at a lower price).

3.3 Products can be purchased from our online retail websites using the payment mechanisms we specify from time to time. We may choose to pass on to you external and internal legal costs of payment processing only if we choose to do so.

4. PRICES

4.1 You must pay all money owed to us, or our delivery contractor, in cleared funds, without any set-off, deduction or withholding. You must pay all amounts due to us within 30 days of the date of the invoice or electronic confirmation. Certain products may not be available online. Delivery will be to your nominated delivery address however some Products must be collected in-store.

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 and title to all Products remains with the vendor, as the case may be, and only passes to you once:

a. where we are the vendor, all money you owe us, on any account, is paid for in full; or

b. where we are not the vendor of the Products, you have paid for those Products (even if you incorporate them into a Product with others, item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you; and

5.4 Until title to the Products passes to you:

a. you hold the Products as our bailee, or the bailee of the vendor, as the case may be; and

b. you will 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; provided that you do not sell the Products and/or breach clause 5.3, the proceeds of such sale or use (in whatever form) are our property, or the unpaid vendor's property, as the case may be, and you will keep them separate and use them only to deal with such products as we direct. Nothing in this clause can be construed as authorising any dealing by you with the Products unless we permit. We or the unpaid vendor, as the case may be, may sue you for the purchase price even where ownership of the Products has not passed to you.

5.5 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, or the unpaid vendor's property, as the case may be, and you will account to us for the proceeds of those Products.

6. WARRANTIES

6.1 We warrant that all Products offered for sale in the ordinary course of business are free of any security interests, liens, charges or other encumbrances.

6.2 Warranty/Warranties of title, representations, conditions, guarantees, duties or liabilities, or customer rights.

6.3 You warrant that all Products offered for sale in the ordinary course of business are free of any security interests, liens, charges or other encumbrances. You warrant that the Products are free from all defects, and that you have full and effective title to the Products, and that you are the vendor of the Products. Any such guarantee, bond or other security must be on such terms as we consider appropriate.

6.4 We may use the benefit of any security interest, security agreement, encumbrance, charge or other encumbrance to us or our Affiliates, including to realise any or all of the Products (including any shortfall arising from resale at a lower price).

6.5 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, or the unpaid vendor's property, as the case may be, and you will account to us for the proceeds of those Products.

6.6 We may in our sole discretion, subject to clause 5.3, sell, or if you are the vendor you authorise the purchaser, in the ordinary course of your business, to use or sell the Products (including any shortfall arising from resale at a lower price).

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 or a vendor of Products, or to any of our other obligations to you under these Terms; and

b. we reasonably believe that you are unlikely to be able immediately to pay any sums you owe to us or a vendor of Products; or

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

7.2 If the Products the subject of the security interest subsequently become part of some other personal property, then our security interest will continue to apply to that personal property and to any reasonable proceeds of that personal property (as defined in sections 82 to 86 of the PPSA. Nothing in section 141(1A), 120(1), 122, 133 or 134 of the PPSA applies. Your rights in sections 116, 1202(2), 121, 125 to 127,129 and 131 of the PPSA do not apply.

7.3 We or the unpaid vendor may appoint a receiver to possess, distrain, sell or otherwise deal with any or all of the Products. We may immediatly and automatically on the occurrence of a Default Event and may also be immediately and automatically revoked by notice in writing to you at any time in our sole discretion, and

7.4 You must instruct us for the full amount of all monies payable under these Terms and all moneys owing to you from us to time to time. You will do all things necessary so as to enable us to resell the Products, whether on our Account or your Account, as we see fit, and to ensure the security interest is a first ranking perfected security interest over the Products and all proceeds.

7.5 If you are the vendor, you warrant that all Products offered for sale at auction or for private sale are free of any security interests, liens, charges or other encumbrances. You must give us the purchase price at a time when ownership of the Products is not passed to you.

7.6 If you are the vendor, you warrant that all Products offered for sale at auction or for private sale are free of any security interests, liens, charges or other encumbrances.
g. we and the third party vendor of Products may sell or dispose of any Products in such a manner and generally on such terms and conditions as we or they think fit and apply the proceeds derived therefrom to us, unless deposited to or owed to us by them, and in each case, otherwise do anything you could do in relation to those Products.

h. charge interest on any amount outstanding, whether or not such amount is overdue, on a daily basis at our current default rate as published on our Group website www.pgwrightson.co.nz.

Neither we nor the third party vendor of Products will be liable to you for any loss or damage you sustain because of the exercise of any right under these Terms, regardless of the nature of that right, whether it is to refuse to sell or supply any Product, part of a Product, or service, to refuse to credit any amount on account of the purchase price or to cancel any transaction.

13. PGW’S ROLE IN TRANSACTIONS BETWEEN YOU AND A THIRD PARTY

13.1 PGW has the power to act as a representative advising (and where PGW determines, PGW may act as agent) for, either or both the vendor and/or purchaser, in respect of the sale and purchase of any Products, including for livestock, grazing and feed transactions.

13.2 For the avoidance of doubt, nothing in these Terms will have the effect of contracting out of any provision of the Credit (Repossession) Act 1997, if it applies.

13.3 Where the vendor has given its prior written consent to a trustee being noted as an independent trustee, that trustee’s liability to PGW will be limited to the assets of the trust as at the time of any default, having given its prior written consent to a trustee being noted as an independent trustee, that trustee’s liability to PGW will be limited to the assets of the trust as at the time of any default.

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

13.5 PGW may deduct commission owed to it from the proceeds of sales completed on your behalf, in any amount you have with PGW, or charge it to your account without disclosing the commission or the gross sale price achieved for those Products. Commission may be payable by both parties when PGW has acted for both parties to a transaction.

13.6 PGW may deduct commission owed to it from the proceeds of sales completed on your behalf, in any amount you have with PGW, or charge it to your account without disclosing the commission or the gross sale price achieved for those Products. Commission may be payable by both parties when PGW has acted for both parties to a transaction. Where PGW acts as agent for a third party vendor or purchaser, PGW gives no WARRANTIES to the vendor or purchaser. Clauses 10 and 11 apply to PGW’s services as agent. The CCLA (and not clauses 10 and 11) applies direct between the vendor and purchaser unless the vendor’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 we are acting for a vendor or a vendor warrants that it has provided accurate and complete information concerning the Products to us. We are not required to verify that information and the vendor indemnifies us in respect of any liabilities, losses, damages, costs (including legal costs on a solicitor/client basis) or claims which we or any other person may make in respect of any breach of this warranty.

13.8 Where we are acting as your agent, you acknowledge that PGW may disclose your name and contact details, and any other details relevant to the transaction to the other party to the transaction.

13.9 PGW has sole discretion to register a security interest as agent for a vendor or stockbroker but has no obligation to do so. PGW is not liable for the consequences of any defect in that registration or failure to register. Where PGW registers a security interest on behalf of a vendor or stockbroker, it is the responsibility of the stockbroker or vendor as the case may be to ensure that security interest, at their own cost.

13.10 Where PGW pays suppliers for Products or services you have purchased, PGW may receive a rebate, commission or fee from the supplier for providing marketing and credit services.

13.11 If you are the vendor, you warrant that all Products offered for sale at auction or for private sale have been obtained and that all security interests have been discharged and all encumbrances extinguished.

13.12 Where you are the vendor or the third party vendor of Products may sell or dispose of any Products, including for livestock, grazing and feed transactions. Clause 13 is for the benefit of any third party vendor of Products and the relevant Products will be transferred to and exercisable by the vendor.

13.13 We are not responsible or liable in any way for anything done or not done by or on behalf of either of us in connection with a contract for the supply of Products, unless we have been notified of any inconsistent provision of any agreement that PGW has not confirmed in writing. PGW is not bound by unauthorised agreements that PGW has not confirmed in writing. An agent or representative of PGW is not authorised to make any representations, warranties or agreements that PGW has not confirmed in writing. There is no partnership, joint venture, employee or agency relationship unless we specify.

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) or claims which we or any other person may make in respect of any breach of this warranty.

14.3 Entire Agreement: Except as set out in this clause, together the Application and these Terms are the entire agreement between you, and the guarantor(s), and supersede all representations, agreements and other communications made by us. Certain Terms of Sale in respect of livestock, grazing and feed transactions are subject to the then current terms of sale and statement of condition at the time of sale or delivery. Any inconsistent provision of the CCLA or any inconsistent provision of any agreement that PGW has not confirmed in writing shall contract out of the provisions of the CCLA. If any provision of these Terms is inconsistent with the CCLA, that part prevails over the relevant provision of the CCLA.

14.4 Our Discretion 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 any right or remedy or prejudice our rights or remedies under these Terms.

c. Severability: If any part of these Terms is illegal, unenforceable or invalid, the remaining Terms are not affected.

14.5 Variation: We may in our absolute discretion change these Terms at any time by publication on our Group website www.pgwrightson.co.nz. 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.

14.6 Variation: We may in our absolute discretion change these Terms at any time by publication on our Group website www.pgwrightson.co.nz. 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 prices quoted or contained in an order or quotation, or in any invoice, statement or other communication from us.

14.8 Inconsistency: If there is any inconsistency between these Terms and the terms of any order that you are supplied with by you to a trustee in bankruptcy, any debts owed by you to us or to any other party, these Terms will prevail subject to clause 14.3 and/or unless we specify otherwise.

14.9 Consumer Guarantees Act: You agree that: the Products are both supplied and acquired in trade, that your Application for use is the then current terms of sale and statement of condition at the time of sale or delivery. Any inconsistent provision of the CCLA or any inconsistent provision of any agreement that PGW has not confirmed in writing shall contract out of the provisions of the CCLA. If any provision of these Terms is inconsistent with the CCLA, that part prevails over the relevant provision of the CCLA.

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

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